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## PART IV

## Section—1-B.

### ACTS OF PARLIAMENT AND ORDINANCES OF THE PRESIDENT WHICH APPLY TO MYSORE.

## NOTIFICATION

No. L.D. 3165—Legis. 3-50-15, dated Bangalore, 29th January—2nd February 1951.

Ordered that the following the Labour Relations Bill, 1950 (6 of 1950), the Trade Unions Bill, 1950 (14 of 1950), the State Railway Provident Fund (Temporary Provisions) Bill, 1950 (101 of 1950), the Supply and Prices of Goods Bill, 1950 (99 of 1950), the Hindu Mutts Bill, 1950 (78 of 1950), the Indian Bar Councils (Amendment) Bill, 1950 (65 of 1950), the Monogamy Enforcement Bill, 1950 (90 of 1950), the Punishment for Adulteration of Food Stuffs Bill, 1950 (70 of 1950), the Indian Bar Councils (Amendment) Bill, 1950 (72 of 1950), the Constitution (Amendment of Fifth Schedule) Bill, 1950 (71 of 1950), the Indian Companies (Amendment) Bill, 1950 (66 of 1950), the Prevention of Adulteration of Food Bill, 1950 (69 of 1950), the Indian Penal Code (Amendment) Bill, 1950 (68 of 1950), the Hindu Marriages Validity (Amendment) Bill, 1950 (94 of 1950), the Indian Penal Code (Amendment) Bill, 1950 (93 of 1950), the Parliament of India and its Members (Powers and Privileges) Bill, 1950 (76 of 1950), the Child Marriage Restraint (Amendment) Bill, 1950 (89 of 1950), the Hindu Mutts Bill, 1950 (77 of 1950), the Code of Criminal Procedure (Amendment) Bill, 1950 (88 of 1950), the Code of Civil Procedure (Amendment) Bill, 1950 (75 of 1950), the Indian Penal Code (Amendment) Bill, 1950 (73 of 1950), and the Code of Criminal Procedure (Amendment) Bill, 1950 (92 of 1950), published in the *Gazette of India*, Part II,

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Section 2, dated the 16th December 1950, be republished in the *Mysore Gazette*, for general information.

By Order of
His Highness the Maharaja,
B. S. PUTTASWAMY,
*Legal Remembrancer and*
*Secretary to Government,*
*Law Department.*

PART II—SECTION 2

## BILLS AND REPORT OF SELECT COMMITTEE ON BILLS

### PARLIAMENT OF INDIA

The following report of the Select Committee on the Bill to provide for the regulation of the relationship between employers and employees, for the prevention, investigation and settlement of labour disputes and for certain matters incidental thereto, was presented to Parliament on the 1st December, 1950 :—

### THE LABOUR RELATIONS BILL, 1950.

REPORT OF THE SELECT COMMITTEE.

We, the undersigned members of the Select Committee to which the Bill to provide for the regulation of the relationship between employers and employees, for the prevention, investigation and settlement of labour disputes and for certain matters incidental thereto, was referred, have considered the Bill, and have now the honour to submit this our report, with the Bill as amended by us annexed thereto.

Upon the changes proposed by us, which are not formal or consequential, we note as follows :—

*Clause 1.*—We consider that there may be practical difficulties in some States in applying this Act at once to all the industries or classes of establishments. Provision has accordingly been made to enable the Government to bring this Act into force in any State by stages. We are, however, of opinion that the Act should be brought into force in all the States within one year of its commencement.

*Clause 2*

*Clause 2 (2).*—We think that the Central Government should be the appropriate Government in relation to any establishment in which more than 50 per cent of the total capital is provided by the Central Government. This provision has been made in part (x), and other changes are merely drafting changes.

*Clause 2 (3).*—This is merely a drafting change.

*Clause 2 (8).*—The concept of civil servant is a little complicated, and the definition has been redrafted to make the meaning more clear. We, however, think that when the appropriate Government, by notification, amends the definition of "civil servant", such notification should be placed before Parliament

or the Legislature of the State, as the case may be. A proviso to this effect has been added to this clause.

*Clause 2 (9)*.—We consider that collective agreement should cover not only the terms and conditions of employment but also those of non-employment. Provision has accordingly been made.

*Clause 2 (14)*.—Under the existing definition, civil servants are excluded from the category of employees. We are of opinion that persons who are employed primarily in a managerial or other administrative capacity drawing a pay of Rs. 350 or more as also apprentices should be excluded from the definition of "employee".

It is common experience that sometimes employees of firms or companies are employed as domestic servants. There seems to be no justification for excluding such persons, though they are employed as domestic servants, from the category of employees.

The definition of "employee" has been redrafted to give effect to the above decisions.

*Clause 2 (15)*.—Under the existing definition, a contractor would have been the employer in relation to the persons employed by him. It often happens that such employees cannot enforce their rights against the contractors. Provision has accordingly been made that, under certain circumstances, the contractor's labourers can enforce their rights either against the contractor or against the ultimate employer who engages the contractor. This clause has been modified accordingly and other changes are formal changes.

Provision has also been made in clause 112 to indemnify an employer who has to make any payment which is really payable by the contractor.

*Clause 2 (19)*.—We are of opinion that the dismissal of an employee should not be taken out of the purview of a labour dispute. We, however, feel that a dispute should not arise until after the employee has actually been dismissed. The proviso to this clause has accordingly been omitted and the definition has been redrafted.

We have elsewhere in clause 84 provided that when such a dispute is referred to a Tribunal, the Tribunal shall only consider if the dismissal is for proper and sufficient cause and in accordance with the provisions of this Act.

*Clause 2 (20)*.—The definition of "lock-out" has been modified so as to include within its scope any lock-out which is declared to help another employer to put pressure on his employees.

*Clause 2 (22)*.—The definition has been slightly modified.

*Clause 2 (26)*.—The definition of "strike" has been modified so as to include within its scope any strike which is declared to help the employees of another establishment to put pressure on their employer.

*Clause 2 (28)*.—We consider that profit bonus or profit-sharing or any contribution paid by the employer for the benefit of the employees under any other law should not be included in the definition of wages. The definition has accordingly been modified.

*Clause 2 (30)*.—Certain Acts, namely, the Indian Penal Code, the Criminal Procedure Code, etc., referred to in this Act are not yet in force in Part B States. We have inserted this new clause to provide that references to such enactments not in force in Part B States shall be construed as references to the corresponding law in force in those States.

*Clause 5.*—We think that a Works Committee may be constituted either for the whole establishment or any part of such establishment. Provision has accordingly been made.

*Clauses 7 and 8.*—For holding conciliation proceedings, there are Conciliation Officers, Boards of Conciliation and Standing Conciliation Boards. In order to expedite conciliation proceedings, it is necessary to provide that the same dispute should not be taken up by all these authorities one after the other. We have accordingly provided that where a Conciliation Officer takes any steps, the dispute cannot be referred to a Board unless the parties to the dispute agree. Similarly, where Standing Boards are constituted, the disputes arising within their jurisdiction cannot be referred to a Board.

*Clauses 10, 11 and 12.*—For adjudication of disputes, the authorities are Labour Courts, Labour Tribunals and the Appellate Tribunal. We think that these authorities should be manned as far as practicable by judicial officers. In the case of Tribunals, we have provided that executive officers should not be appointed to the Tribunal. In the case of Labour Courts, however, we have provided that an executive officer may be appointed if only he has special experience in labour matters.

We are of opinion that a person who has been the presiding officer of a Labour Court for not less than three years should be eligible for appointment as a member of a Tribunal.

We further hold that when dispuates affecting banking or insurance companies, which are credit institutions, come up to a Tribunal or the Appellate Tribunal, one person having special knowledge and experience in banking or insurance should be appointed as a member of the Tribunal or the Appellate Tribunal hearing the dispute or appeal.

We consider that in order to ensure the independence of Labour Courts, Tribunals and the Appellate Tribunal, appointments to these authorities, except in the case of High Court Judges and retired High Court Judges, should not be made without the approval of the High Court or the Supreme Court. In order further to ensure the independence of the members of the Appellate Tribunal, we have provided that they should ordinarily hold office for a fixed term of five years and that the salary of a member should not be varied to his disadvantage after his appointment.

These clauses have been modified accordingly.

*Clause 15.*—In this clause we have inserted a few words to make it clear that in order that the provisions relating to standing orders may be applicable to an establishment, the persons employed therein should be employed in connection with the normal work of the establishment.

*Clause 16.*—We think that when standing orders are already in force in any establishment, the employer should not be compelled to submit fresh standing orders but may apply to have the standing orders modified to bring them in conformity with this Act. We have made this provision by adding a new sub-clause (5).

*Clause 18.*—We consider that a time limit of two months should be fixed for disposing of any case before the registering officer. The clause has been modified accordingly.

*Clause 19.*—We are of opinion that an appeal from a registering officer should lie not to the Chief Conciliation Officer but to a Tribunal. The clause has been modified accordingly.

*Clause 20.*—We have added a new sub-clause (*2*) to provide that where standing orders are already in force in any establishment such standing orders should continue to be in force till they are modified or substituted by fresh standing orders.

*Clause 21.*—We have inserted this new clause to make special provision relating to model standing orders.

*Clause 23 (original clause 22).*—We consider that standing orders should be posted either in English or Hindi. The clause has been modified accordingly.

*Clause 27 (original clause 26).*—When a labour dispute arises, an employer or employee has the option to serve notice on the other party. We are of opinion that in respect of certain important matters, it should be obligatory on the part of an employer to serve such notice. We have specified such matters by inserting a new Schedule—the Third Schedule—and have added a proviso to sub-clause (*1*).

*Clauses 28 and 29 (original clauses 27 and 28).*—We think that there is no justification for making any distinction between disputes which arise in public utility services and other disputes. We have done away with this distinction.

*Clauses 30 and 32 (original clauses 29 and 31).*—We think that a time limit should be fixed within which the Conciliation Officer has to submit his report. These clauses have been modified accordingly.

*Clauses 34 to 36 (original clauses 32 to 35).*—Under the existing clauses, only one bargaining agent could be appointed in respect of any establishment or class of establishments. Such bargaining agent would have authority to bargain collectively on behalf of all the employees employed in that establishment or class of establishments. We have carefully considered this question. We are of opinion that in any undertaking there may be special or distinctive classes of employees whose problems are different from those of the general body of employees. We also think that each undertaking has problems of its own which cannot be properly handled by a bargaining agent for the whole industry. We have accordingly provided for three categories of bargaining agents. A general bargaining agent for the whole industry would deal with general problems affecting the whole industry. A special bargaining agent would deal with matters which are of exclusive concern to the particular class of employees it represents. A local bargaining agent would deal with problems peculiar to a particular undertaking.

We are conscious that some conflicts are likely to arise among these various categories of bargaining agents in respect of their jurisdiction. We have accordingly empowered Labour Courts to resolve such jurisdictional conflicts.

We have also provided for the respective rights of these various categories of bargaining agents when they are appointed.

*Clauses 39, 44 and 46 (original clauses 38, 43 and 45).*—The changes made in these clauses are similar to those made in the corresponding clauses under Chapter IV.

*Clause 47 (original clause 46).*—We have substituted the words "is of opinion" for the words "is satisfied". We have omitted the first proviso to sub-clause (*1*) and inserted a new proviso. These are merely consequential amendments.

*Clause 62 (original clause 61).*—We are of opinion that the appropriate Government should not be vested with powers to withdraw any case after it has been referred to a Board, Commission or Tribunal. The clause has been modified accordingly.

*Clause 61 (original clause 60).*—It is always difficult to specify precisely when a labour dispute actually arises. To remove difficulties that may arise, we have provided that a dispute for the purposes of this clause shall be deemed to have arisen when notice of such dispute is served under section 27 or section 39.

*Clause 62 (original clause 61).*—We have added a new sub-clause (*6*) to provide that an order of a Labour Court should be published within fifteen days of its pronouncement.

*Clause 64 (original clause 63).*—We are of opinion that Tribunals should not submit their awards to the appropriate Government. Awards should be pronounced in open court, like all judicial pronouncements. Necessary amendments have been made.

*Clause 65 (original clause 64).*—We have redrafted this clause. The purpose of publication of an award should be only to give information to the parties concerned.

*Clause 66 (original clauses 65 and 66).*—We are of opinion that the appropriate Government should not have the right to interfere with the awards pronounced by Tribunals. We have accordingly omitted the original clause 65 and also the proviso to sub-clause (*1*) of clause 66 and sub-clause (*2*) thereof. We, however, feel that when the appropriate Government is a party to the dispute and there are practical difficulties in giving effect to the award, it may place the award before the Legislature whose decision thereon shall be final.

*Original clause 67.*—This clause has been omitted.

*Clause 67 (original clause 68).*—Under the existing clause, an appeal lies to a Tribunal from an order of a Labour Court only on a question of law. We, however, think that in relation to orders passed by a Labour Court under Chapter V, an appeal should lie both on questions of fact as also of law. We have inserted a proviso to give effect to this decision.

*Clause 68 (original clause 69).*—We are of opinion that a Tribunal should be empowered to stay the order of a Labour Court when it is satisfied that the appeal would be infructuous unless the stay order is made. The clause has been modified accordingly.

*Clause 69 (original clause 70).*—We are of opinion that before dismissing an appeal summarily, the Tribunal should give an opportunity to the appellant of being heard. The clause has been modified accordingly.

*Clause 72 (original clause 73).*—In accordance with the modification of the definition of "wages", this clause has also been modified. We have also provided that an appeal would lie to the Appellate Tribunal in respect of any matter relating to retrenchment which arises out of any scheme of rationalisation, standardisation or improvement of plant or technique.

*Clause 74 (original clause 75)*.—We have added two provisos to sub-clause (2) to provide that where an appeal involves any dispute affecting any banking or insurance company, the bench should include a person having special knowledge and experience in banking or insurance. In order to expedite the disposal of stay applications, we have further provided that such applications may be heard by one member only.

*Clauses 77, 78 and 79 (original clauses 78, 79 and 80)*.—The changes made in these clauses are on the same lines as those made in clauses 68, 69 and 70.

*Clauses 82 to 91*.—We have inserted a new Chapter X relating to dismissal and retrenchment of employees. We have laid down the procedure for dismissal and the powers of Tribunals dealing with disputes arising out of dismissal of an employee. We have also laid down the procedure to be followed by an employer when he retrenches his employees as a result of the introduction of any scheme of rationalisation, standardisation or improvement of plant or technique. We have also laid down the conditions which must be fulfilled before an employee can be retrenched, and have also laid down the procedure for retrenching employees and re-employing retrenched employees.

*Clause 93 (original clause 84)*.—We are of opinion that proceedings before the various authorities under this Act should be disposed of as quickly as possible. It is not necessary that they should follow the elaborate procedure of the ordinary civil courts. They may follow a simpler procedure which may be laid down either by rules or by the Appellate Tribunal. The clause has been modified accordingly.

*Clauses 94 and 95 (original clauses 85 and 86)*.—A collective agreement or award should not remain in operation for any period exceeding three years. These clauses have been modified accordingly.

*Clause 98 (original clause 89)*.—We are of opinion that a legal practitioner should not be allowed to appear in any proceeding under this Act unless both parties agree and permission is given by the authority before whom the proceeding is pending. This, however, should not debar an officer of any employer, trade union or association of employers who is a legal practitioner from representing a party. We also think that it should be clearly laid down that an employee or employer may personally represent his case before any of the authorities under this Act. We have modified the clause accordingly.

*Clause 100 (original clause 91)*.—We are of opinion that when an employer wants to alter the conditions of service of his employees in respect of any matter specified in the Third Schedule, he should not only give notice to the employees but should not make any change until 30 days have elapsed from the date of such notice. We have inserted a new sub-clause to provide for this matter.

The existing clause prohibits an employer from altering the conditions of service of any employee during the pendency of any proceeding under this Act except with the express permission of the authority concerned. This may occasionally cause hardship. We have, therefore, provided that an employer may suspend an employee for misconduct not connected with the dispute if the employee is paid full wages during the pendency of such proceeding. Other changes are consequential.

*Clause 105 (original clause 96)*.—Under the existing clause, strikes or lockouts were prohibited for any reason whatsoever during the pendency of any

proceeding under this Act or during the period in which any settlement, agreement or order or award is in operation. We are of opinion that strikes or lock-outs should be prohibited only in respect of disputes which are either pending before any authority or are covered by any settlement, etc.

We are also of opinion that the right to strike or declare a lock-out should not be denied if a proceeding before a Tribunal or the Appellate Tribunal continues for a very long period. We have accordingly provided that there should be no right to strike or declare a lock-out during a period of eight months from the date on which the proceeding before the Tribunal commenced or during the pendency of any proceeding before any Tribunal or the Appellate Tribunal, whichever is shorter.

We have omitted the proviso to sub-clause (*1*) and amended sub-clause (*1*) accordingly.

*Clause 107* (*original clause 98*).—The existing clause prohibited all sympathetic or general strikes. We are of opinion that sympathetic or general strikes within the same industry, trade or class of establishments should be allowed. Parts (*d*) and (*e*) of sub-clause (*1*) have accordingly been modified.

*Original clause 99.*—We think that this clause should be omitted.

*Clause 108* (*original clause 100*).—We think that the wages payable to an employee for the period of an illegal lock-out should be reduced from twice the average pay to 1½ times the average pay.

We are of opinion that when an illegal strike or lock-out is called off within 48 hours of its commencement, the employees or employer, as the case may be, should not be made to bear all the consequences of such illegal strike or lock-out. In such a case, the employee should only lose his wages for the period of the strike and the employer should pay wages and other contributions to the employees as if they had been on duty during the period of the lock-out. The employee or employer should not be made liable for any other penalty of illegal strike or lock-out under this Act. In order that the parties may not frequently resort to such strikes or lock-outs, we have further provided that any illegal strike or lock-out, though called off within 48 hours of its commencement, shall not cease to be illegal for any purpose whatsoever if it is declared or commenced within six months from the date of another illegal strike or lock-out. We have made this provision by adding a new sub-clause (*3*).

*New clause 112.*—We have added this new clause to indemnify employers against contractors or agents.

*Clause 114* (*original clause 105*).—We have added a new sub-clause (*2*) to provide that where a trade union loses its registration or recognition or its certification as a bargaining agent for failure to comply with the terms of any settlement, etc., all the rights which such a trade union loses should be restored to the trade union if the trade union can satisfy the competent authority that it has fulfilled all the terms and conditions which it failed to comply with.

*New clause 128.*—We have inserted this new clause to provide for penalty for retrenching employees in contravention of the provisions of this Act.

*Clause 130* (*original clause 120*).—We think that when a company commits an offence, to hold every director, manager, secretary or officer responsible for such offence may cause hardship. We have substituted a new clause for the existing clause.

*Original clauses 121 and 122.*—We have omitted these clauses.

*Clause 132 (original clause 124).*—We consider that any person aggrieved by any contravention made under this Act should be entitled to institute a case directly in the courts without the intervention of the appropriate Government. This clause has been modified accordingly.

*Clause 138 (original clause 130).*—Changes made are consequential.

*Clause 140 (original clause 132).*—We have amended this clause to make it clear that the laws in force in any State should be repealed only to the extent to which this Act is brought into force in that State.

*The Second Schedule.*—The changes made are more or less consequential. We think that "Retrenchment of employees" should be inserted in this Schedule.

*The Third Schedule.*—We have inserted this new Schedule with reference to the proviso to sections 27 and 39.

2. The Bill was published in Part V of the *Gazette of India*, dated the 25th February, 1950.

3. We think that the Bill has not been so altered as to require circulation under Rule 77 (4) of the Rules of Procedure and Conduct of Business in Parliament and we recommend that it be passed as now amended.

M. ANANTHASAYANAM AYYANGAR
JAGJIVAN RAM
B. R. AMBEDKAR
*SARANGDHAR DAS
*KHANDUBHAI K. DESAI
*HARIHAR NATH SHASTRI
*M. R. MASANI
*SUCHETA KRIPALANI
*SADIQ ALI
*R. VELAYUDHAN
SITA RAM S. JAJOO
SATYENDRA NARAYANA SINHA
*PRABHU DAYAL HIMATSINGKA
*T. A. RAMALINGAM CHETTIAR
*V. C. KESAVA RAO
**GOKULBHAI DAULATRAM BHATT
P. S. DESHMUKH
**B. L. SONDHI
**H. V. KAMATH

NEW DELHI;
*The 1st December*, 1950.

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*Subject to a minute of dissent.
**Subject to minutes of dissent.

## MINUTES OF DISSENT

### I

I am in disagreement with the point of view of the majority of the members of the Committee on a number of important and fundamental questions. I shall indicate in this note only the more important points of disagreement.

I am opposed to the principle of compulsory adjudication as it will severely restrict the fundamental right of the workers to strike, universally recognised as such in all democratic countries of the world. Compulsory adjudication hampers collective bargaining and weakens the trade union movement.

What the legislation should really provide is an impartial, efficient and a simple arbitration machinery which can inspire confidence in the minds of both the parties—the employees as well as the employers—so that they may voluntarily agree to refer their disputes to it for arbitration. The machinery as provided in the Bill is very complicated and would involve protracted proceedings before the Conciliation Officer, the Tribunal or the Appellate Tribunal as the case may be and delay the quick settlement of industrial disputes.

The percentage of membership fixed for certification of trade unions as bargaining agents is too high in the present state of the trade union movement. It is likely that in some undertakings comprising the unit for collective bargaining under the Bill the certified bargaining agent may have little or no membership. It would have been more appropriate to use the democratic method of secret ballot and permit all the workers in the unit, or the undertaking, as the case may be, to elect the bargaining agent.

A large number of workers have been excluded from the operation of the Bill. The definition of "civil servants" is quite involved and complicated. It would have been desirable to permit civil servants drawing a salary of less than Rs. 350 to be covered by the Bill. There is no justification for excluding domestic servants.

SARANGDHAR DAS.

NEW DELHI;
*The 1st December*, 1950.

### II

We are in general agreement with the Bill, as reported by the Select Committee. In its present revised form, the Bill registers a distinct improvement on the original Bill which was open to some serious objections from labour viewpoint. Our support to the Bill, however, is subject to the observations made in this note.

In the definition chapter, our opposition was mainly directed against, clause 8, relating to civil servants. Civil servants are destined to play an important part in the stability of the State and eificient Administration of the country and they are entitled to adequate protection in regard to their service conditions. In the Select Committee, we had expressed the view that there was no justification why any discrimination should be made to their detriment and why they should be denied a legitimate channel for the redress of their grievances. An assurance was given to the Committee on behalf of the Government, that while for practical reasons civil employees were kept out of the

purview of this Bill, the Home Ministry were contemplating to bring at an early date a separate Bill to provide suitable machinery for dealing with the grievances of civil servants. In view of that assurance we waived our original objection in regard to putting civil servants on a separate footing from other classes of workers.

Our other objection in regard to clause 8 referred to above, was that certain classes of workers, who to all practical purposes were considered as industrial workers, were included in the category of civil servants. In such a list came the postal employees including telegraphists and telephone operators. The reason advanced on behalf of the Government for inclusion of these employees in the category of civil servants was, that they were fully governed by civil service rules and enjoyed all the privileges to which civil servants of the Government were entitled. We drew their attention to the fact that there was a large number of employees in postal section who were not governed by civil service rules. It was conceded by the Government that such employees would come under the purview of the Labour Relations Bill.

Another set of employees who were put in the category of civil servants were those employed in the offices of Railway Board or General Managers and in those of Director-General of Ordnance Factories. We saw no justification for excluding them from the purview of this legislation by bringing them under the definition of civil servants. Unlike postal employees, a large section of these employees were not governed by civil service rules and so there was no reason why in the absence of any protection as afforded to civil servants, they should be kept out of the purview of this Bill. While we pressed this point in the Select Committee the weight of the argument was appreciated and it was unanimously resolved that a recommendation should be made to the Government to extend all the rules and privileges enjoyed by civil servants, to these categories of employees. Our concurrence on this point is clearly on this clear understanding; that by the time this Bill is finally considered by the Parliament, the Government will announce their decision to place these workers on the level of civil servants in regard to service conditions. In absence of any such undertaking, we reserve our right to re-insist that these workers should be excluded from the category of civil servants as defined in this Bill.

In clause 11, a new provision has been added by the Select Committee to the effect that where a dispute relating to Banking or Insurance concerns is referred to a Tribunal, a person having special knowledge of or experience in banking or insurance, shall be appointed a member of the Tribunal. Similar provision is made in clause 74 dealing with Appellate Tribunals. We fail to agree with this principle. Every industry in the country has its special importance as significant as that of banking or insurance and a distinction like this, is, in our opinion uncalled for. Our opposition is based on another ground also. In our view, machinery of adjudication can inspire respect and confidence only, if it is manned by persons who work with a judicial mind and whose integrity may not be open to question because of their particular associations. Instead of making any such provision in the Bill, the best course would be, to include in tribunals, a judge who has had knowledge of or experience in dealing with commercial cases, in his judicial career.

While we are in general agreement with the clauses relating to dismissal and retrenchment, as embodied in Chapter X of the Bill, which register a remarkable improvement on the original Bill, we regret to record our strong dissent from a discriminating provision in clause 84, putting bank employees

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on a separate footing from workers in other industries, in cases of victimization. We fail to appreciate why such an invidious distinction should be made to the detriment of employees in the banking concerns.

In the same chapter, clause 83 lays down that no employee who has been in continuous employment under an employer for not less than six months shall be dismissed from service for any misconduct, without reasonable opportunity being given to him to show cause against the action proposed to be taken against him. As it is, this clause is liable to be used to the detriment of seasonal employees, whose period of continuous service may be less than six months at a stretch. We suggested to the Select Committee that the term "continuous" should be so defined as to cover the period of off-season in case of seasonable employees. The Select Committee appreciated the weight of our argument. But our attention was drawn to clause 138 wherein it is laid down that the Central Government may by notification make rules to provide for certain matters including "meaning of continuous employment for the purposes of sections 83 and 88". An assurance was given to the Committee on behalf of the Government that our viewpoint would be fully borne in mind when rules would be framed by the Government.

KHANDUBHAI K. DESAI
HARIHAR NATH SHASTRI
H. V. KAMATH
R. VELAYUDHAN
SUCHETA KRIPALANI
SADIQ ALI
V. C. KESAVA RAO
GOKULBHAI DAULATRAM BHATT

NEW DELHI;
*The* 1st *December*, 1950.

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## III

I generally agree with the separate note of Shri Khandubhai Desai and others.

I am not in agreement with that part of the note relating to clause 11 and 74 wherein suitable provision is made to include a person having special knowledge of Banking and Insurance as a member of the Tribunal.

GOKULBHAI DAULATRAM BHATT

NEW DELHI;
*The* 1st *December* 1950.

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## IV

Besides the points of disagreement indicated in the minute of dissent which I have signed jointly with some of my colleagues on the Select Committee, I have to briefly mention a few other somewhat fundamental issues on which I am constrained to differ from the majority.

2. While stating that a *via media* as regards "employee" and "civil servant" has been suggested in the joint minute of dissent, I must say that the definition of "employee" and the consequent exclusion of such categories

of workers as the "civil servants", and of various public utilities from the benefits of this labour legislation entails a denial of the fundamental right of association or union, as provided for in the Constitution. The exclusion of, perhaps, a still larger number of more helpless workers *viz.*, domestic servants, from the purview of this measure is also objectionable.

3. The provisions in the Bill regarding Collective Bargaining, and the appointment of a certified bargaining agent, militate against the effective functioning of a real, working industrial democracy. These provisions will tend to make only such unions prevail, and such bargaining agents appointed, as are acceptable to the employer, or favoured by the party in power, and thus deny real freedom to the majority of workers to choose their own bargaining agent.

4. The multiple machinery of conciliation, adjudication and appeal is likely to make the process of workers seeking effective redress of their grievances protracted and expensive. This may so operate as to exhaust the slender resources of even the best organized unions, and thus handicap employees in their disputes with employers.

5. Under the socio-economic system as it exists and functions today, the worker has unfortunately, a dread of compulsory adjudication or arbitration. The provisions of this Bill in that behalf are, in effect tantamount to such a system of compulsion.

6. The provisions relating to restrictions on the right of strike—the workers' only weapon against continued injustice and exploitation—add to the objectionable features of this measure. The Chapter on Directives of State Policy in the Constitution has promised to provide work, and a living wage for every citizen able to work. No arrangement has, however, so far been made to make good this constitutional promise and provide work for everyone; and so long as gainful employment cannot be provided for every worker, denial of or drastic restriction on the right to strike would take away from the worker the only means in his power to obtain some measure of relief from injustice and exploitation.

7. The power to declare strikes illegal, and the wide scope given to "essential services", combine to create yet another handicap against the organised worker, and so prevent him from seeking and obtaining substantial redress of his grievances.

8. If the provisions of the Bill referred to above are suitably modified, this important measure can still assist in the vital task of promoting the solidarity of the working class, strengthening the labour movement, and progressively building up social peace and national unity.

H. V. KAMATH.

NEW DELHI;
*The 1st December,* 1950.

## V

Clauses 115 to 120 dealing with the special provisions for exercising control by the appropriate Government with regard to certain undertakings should be deleted as they are really outside the scope of this Bill, which is primarily meant for the purpose of prevention, investigation and settlement of labour disputes. Government's power to take over an undertaking as a controlled undertaking should be prescribed, if at all, by a separate Act, such, for instance, as the Industries (Control) Bill. The opposition aroused by that Bill should, however, be a pointer to the fact that such measures are not feasible.

The Labour Relations Bill provides sufficient penalties against employers who do not comply with the terms of an award; penalties sufficient to make them comply with the award. Furthermore, there is no guarantee that when Government controls the undertaking it would be in a position to implement all the terms of the award made by the Tribunal. Government will be taking on a responsibility which they may not be able to fulfil. Indigenous as well as foreign capital would be hesitant to invest in industrial undertakings if such provisions are allowed to stand, and it is likely that in the long run even the interests of Labour itself may be prejudiced.

T. A. RAMALINGAM CHETTIAR
B. L. SONDHI
M. R. MASANI

NEW DELHI;
*The* 1*st December,* 1950.

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## VI

I regret I do not agree with the majority with regard to some of the provisions. It should be borne in mind that undue extension of the provisions of the Labour Relations Bill to various calling professions and occupations other than connected with trade, business, manufacture and industry may lead to very undesirable consequences and a lot of administrative difficulties. But in any case if it is proposed that the Bill should cover the various classes of establishments, then establishments owned or managed by the Government or by private enterprise should be treated on equal basis. I, therefore, feel that the definition of "establishment" should be limited to any unit of employment in any trade, business, manufacture, industry, industrial service or other commercial activity employing not less than hundred persons unless the unit is a factory or mine covered by the Indian Factories Act or the Indian Mines Act.

Regarding works committee I do not think that works committees are necessary for any establishment other than industrial establishment, factory, etc. Therefore, if a second proviso is added to clause 5 to the effect that constitution of works committee under this clause will be optional in the case of commercial establishments, that might obviate the difficulty of works committee being formed in such establishments.

In clause 100 there should be no bar to "punishment by dismissal or otherwise of an employee for misconduct which is not connected with any dispute" that might be pending before any court or tribunal and, therefore, the first proviso to that section might be suitably amended to exclude from the necessity of permission being sought if the case is for misconduct not connected with the dispute.

Clauses 115 to 120 should be deleted and should not find place in this Bill. In legislation dealing with labour relations there is no place for a provision for Government to take action for securing the public safety or the maintenance of public order or for maintaining supplies. These are exceptional circumstances and can be only carried through in any emergency by emergency legislation such as an Ordinance, etc. They cannot form part of the normal legislation of the country. If it is claimed that the whole purpose of clauses 115 to 120 is to enable Government to run undertakings which fail to comply with orders of Industrial Tribunals, the answer is that there are already in existence suitable safeguards in the Bill for enforcing awards against employers who fail to carry them out.

It should be noted that the present Bill provides for recovery of any money due from an employer under any settlement or collective agreement or order of a court or award as arrears of land revenue or as a public demand, *vide* clause 111 and, therefore, these provisions are absolutely unnecessary and uncalled for. These extremely severe provisions now proposed will militate against the establishment of new industries and are likely to impede the growth and development of industries in the country and appear to be wholly unjustified.

Some special provisions should have been made in the Bill in respect to banks and insurance companies. After all, in banks and insurance companies the assets belong mostly to others and unless we treat the banks and insurance companies as credit institutions and save them from unnecessary interference, it might act as a damper and also stand in the way of development of these institutions which will react very adversely on all financial matters.

B. L. SONDHI.

NEW DELHI;
*The* 1*st December*, 1950.

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## VII

I regret I do not agree with the majority with regard to some of the provisions. It should be borne in mind that undue extension of the provisions of the Labour Relations Bill to various calling professions and occupations other than connected with trade, business, manufacture and industry may lead to very undesirable consequences and a lot of administrative difficulties. But in any case if it is proposed that the Bill should cover the various clauses of establishments, then establishments owned or managed by the Government or by private enterprise should be treated on equal basis. I, therefore, feel that the definition of establishment should be limited to any unit of employment in any trade, business, manufacture, industry, industrial service or other commercial activity employing not less than hundred persons unless the unit is a factory or mine covered by the Indian Factories Act or the Indian Mines Act.

Clause 2(15) (d) also extends the scope of "employer" very wide and in case of contractor, the contractor should be held the "employer".

In clause 2 (26) we should include "concerted slow-down or other concerted interruption of operations by employees". This is a method which is very frequently adopted and should be included in the term "strike".

Regarding works committee, I do not think that works committees are necessary for any establishment other than industrial establishment, factory, etc. Therefore, if a second proviso is added to clause 5 to the effect that constitution of works committees under this clause will be optional in the case of commercial establishments, that might obviate the difficulty of works committees being formed in such establishments.

I think that inclusion of other establishments in a reference to a Tribunal as provided under clause 49 is likely to create a lot of complications and, therefore, the power to include other establishments in a reference by the Government "of its own motion" should be deleted.

As regards clause 77, in my view the proviso thereto unnecessarily fetters the discretion of the Appellate Tribunal which will consist of, in most cases, retired High Court Judges and there is no reason why they should not be trusted

to exercise their discretion properly. The conditions laid down by the proviso are very restrictive and they have been so interpreted in certain cases.

As regards clause 98.—Representation of parties,—the provisions as in the original Bill were quite proper. There is no reason why in a labour dispute there should be any bar to a party to appear by a person of his choice before a Commission, Labour Court Tribunal or Appellate Tribunal. The clause as now proposed by the majority is very restrictive. The employers feel that unnecessary impediments are being put in their way of proper representation before the Labour Tribunals and, therefore, all words after the words "legal practitioner" in sub-clause (4) of clause 98 should be deleted. If it is thought necessary to restrict the right to appear of legal practitioner before Labour Court-Tribunal or the Appellate Tribunal, this may be made subject to the consent or permission of the court concerned. But it should not be made dependent on the consent of the other party.

In clause 100 there should be no bar to "punishment by dismissal or otherwise of an employee for misconduct which is not connected with any dispute" that might be pending before any court or tribunal and, therefore, the first proviso to that section might be suitably amended to exclude from the necessity of permission being sought if the case is for misconduct not connected with the dispute.

Clauses 115 to 120 should be deleted and should not find place in this Bill. In legislation dealing with labour relations there is no place for a provision for Government to take action for securing the public safety or the maintenance of public order or for maintaining supplies. These are exceptional circumstances and can be only carried through in an emergency by emergency legislation such as an Ordinance, etc. They cannot form part of the normal legislation of the country. If it is claimed that the whole purpose of clauses 115 to 120 is to enable Government to run undertakings which fail to comply with orders of Industrial Tribunals, the answer is that there are already in existence suitable safeguards in the Bill for enforcing awards against employers who fail to carry them out.

It should be noted that the present Bill provides for recovery of any money due from an employer under any settlement or collective agreement or order of a court or an award as arrears of land revenue or as a public demand (*vide* clause 111) and, therefore, these provisions are absolutely unnecessary and uncalled for. These extremely severe provisions now proposed will militate against the establishment of new industries and are likely to impede the growth and development of industries in the country and appear to be wholly unjustified.

Some special provision should have been made in the Bill in respect to banks and insurance companies. After all, in banks and insurance companies the assets belong mostly to others and unless we treat the banks and insurance companies as credit institutions and save them from unnecessary interference, it might act as a damper and also stand in the way of development of these institutions which will react very adversely on all financial matters.

P. D. HIMATSINGKA.

NEW DELHI;
*The 1st December*, 1950.

H8 113

# THE LABOUR RELATIONS BILL, 1950

(AS AMENDED BY THE SELECT COMMITTEE)

*(Words sidelined or underlined indicate the amendments suggested by the Committee ; asterisks indicate omissions)*

BILL NO. 6 OF 1950.

*A Bill to provide for the regulation of the relationship between employers and employees, for the prevention, investigation and settlement of labour disputes and for certain matters incidental thereto.*

BE it enacted by Parliament as follows :—

## CHAPTER I

### PRELIMINARY

1. *Short title, extent and commencement.*—(*1*) This Act may be called the Labour Relations Act, 1950.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) This section shall come into force at once ; the remaining provisions of this Act shall come into force on such date or dates, not later than one year from the coming into force of this section, as the Central Government may, by notification in the Official Gazette, appoint in this behalf, and different dates may be appointed for different States :

Provided that in issuing such a notification with respect to any State, the Central Government may direct that such provisions shall apply to such class or classes of establishments only within that State as may be specified in the notification.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(*1*) "Appellate Tribunal" means the Labour Appellate Tribunal constituted by the Central Government under section 12 ;

(*2*) "appropriate Government" means—

(*a*) the Central Government, in relation to any labour dispute, or any matter regulating the relationship between employers and employees in any of the following establishments, namely :—

(*i*) railways,

(*ii*) major ports,

(*iii*) any form of inland or coastal transport which maintains establishments and connected services in more than one State,

(*iv*) mines,

(*v*) oilfields,

(*vi*) industries, the control of which by the Union has been declared by Parliament by law to be expedient in the public interest and which are notified in this behalf by the Central Government in the Official Gazette,

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(*vii*) insurance companies having branches in more than one State,

(*viii*) insurance companies having branches in more than one State,

(*ix*) such corporations established by the authority of the Central Government as are notified in this behalf by that Government in the Official Gazette,

(*x*) establishments carried on by or under the authority of the Central Government or in which not less than fifty per cent of the total capital is provided by that Government,

(*xi*) any other establishment or class of establishments, the objects or activities of which are not confined to one State and which, in consultation with the State Governments concerned, is notified in this behalf by the Central Government in the Official Gazette, and

(*b*) the State Government, in relation to any labour dispute, or any matter regulating the relationship between employers and employees in any other establishment ;

(*3*) "average pay" means the average of the wages paid or payable to an employee—

(*a*) in the case of monthly paid employees, in the three complete calendar months,

(*b*) in the case of weekly paid employees, in the four complete weeks,

(*c*) in the case of daily paid employees, in the twelve full working days,

preceding the date on which the average pay becomes payable if the employee had worked for three complete calendar months or four complete weeks or twelve full working days, as the case may be, and where such calculation cannot be made, average pay shall be calculated as the average of the wages paid or payable to an employee during the period he actually worked ;

* * * * * *

(*4*) "award" means any interim or final determination by a Tribunal of any labour dispute or of any question relating thereto ;

(*5*) "bargaining agent" means * * * a registered trade union or the representatives of employees chosen in the prescribed manner who may act on behalf of the employees in collective bargaining ;

(*6*) "Board" means a Board of Conciliation constituted by the appropriate Government under section 7 ;

(*7*) "certified bargaining agent" means a bargaining agent certified under this Act, such certification not having been revoked ;

(*8*) (*a*) "civil servant" means a person who is a member of a civil service of the Union or an All-India service or a civil service of a State or holds any civil post under the Union or a State ;

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Provided that such a person shall not be deemed to be a civil servant if he—

(*i*) is paid from contingencies, or

(*ii*) is employed either as a gazetted servant drawing a basic pay (excluding allowances) of not less than two hundred rupees per mensem or as a non-gazetted servant in any of the following establishments owned or managed by or under the Central or a State Government, namely :—

I. railways and other forms of transport;

II. ports, docks, wharves or jetties;

III. telegraph, telephone, wireless telegraph or broadcasting establishments;

IV. mints;

V. printing presses;

VI. ordnance factories, depots or other installations;

VII. public works establishments, in so far as they relate to work charged staff;

VIII. irrigation and electric power establishments;

IX. plantations;

X. mines as defined in clause (*f*) of section 3 of the Indian Mines Act, 1923 (IV of 1923);

XI. factories, as defined in clause (*m*) of section 2 of the Factories Act, 1948 (LXIII of 1948);

*Explanation*.—Notwithstanding anything contained in the proviso, a person shall not be deemed to be excluded from being a civil servant within the meaning of this clause if such person is employed—

(*i*) in the offices of the Railway Board, or of the general managers of railways and other forms of transport, or

(*ii*) in the offices of the Director-General of Posts and Telegraphs and any Postmaster-General or the Director-General of Broadcasting, or

(*iii*) in the offices of the Director-General of Ordnance Factories, or

(*iv*) in the offices of any chief engineer or superintending engineer or any public works establishment notified in this behalf by the appropriate Government, or

(*v*) as a telegraphist, telephone or wireless operator;

(*b*) the appropriate Government may, if it is satisfied that the public interest so requires, by notification in the Official Gazette, amend the entries specified in clause (*a*) so as to include in, or exclude from, the definition of "civil servant" any person or class of persons employed in any office or in any establishment or class of establishments :

Provided that no such notification shall be issued so as to include any class of persons within the definition of "civil servant" unless the appropriate Government is satisfied that the conditions of service applicable to such class of persons are not less satisfactory than those applicable to civil servants of a similar class :

Provided further that every such notification shall, on the first available opportunity, be laid by the appropriate Government before Parliament or, as the case may be, before the Legislature of the State;

(9) "collective agreement" means an agreement in writing between an employer on the one hand and a certified bargaining agent on the other containing terms and conditions of employment or non-employment of an employee or the privileges, rights, liabilities or duties of the employer or employees, or the terms and conditions of the settlement of any labour dispute;

(10) "collective bargaining" means negotiations between an employer on the one hand and a certified bargaining agent on the other with a view to the settlement of any labour dispute or to the conclusion of a collective agreement and includes the renewal, modification or revision of any collective agreement; and the expression "bargain collectively" shall be construed accordingly;

(11) "Commission" means a commission of inquiry constituted by the appropriate Government under section 9;

(12) "Conciliation Officer" means a Conciliation Officer appointed under this Act and includes the Chief Conciliation Commissioner, any Additional Chief Conciliation Commissioner, Regional Conciliation Commissioner and Chief Conciliation Officer;

(13) "conciliation proceeding" means any proceeding held by a Conciliation Officer, a Board or Standing Board under this Act;

(14) "employee" means any person employed in any establishmen to do any work for hire or reward, whether the terms of employment be express or implied, and for the purpose of any proceeding under this Act in relation to a labour dispute, includes any person who has been dismissed or discharged in connection with, or as a consequence of, that dispute, o from whose dismissal or discharge that dispute has arisen, but does no include—

(a) any civil servant; or

(b) any member of the armed forces or police forces; or

(c) any person employed in any establishment—

(i) primarily in a managerial or other administrative capacit drawing a basic pay (excluding allowances) of not less than thre hundred and fifty rupees per mensem; or

(ii) as an apprentice; or

(d) any domestic servant who is directly in the pay of the perso under whom he is employed;

(15) "employer", in relation to any establishment, means a perso who engages the services of another person to do any work for hire o reward in that establishment, and includes—

(a) any person who has the ultimate control of such establishmen

(b) in relation to any establishment carried on by or under th authority of any department of the Government, the authority pr scribed in this behalf, or, where no authority is so prescribed, the hea cribed in this behalf, or, where no authority is so prescribed, the hea of the department;

(*c*) in relation to any establishment carried on by a local authority, the chief executive officer of that authority ;

(*d*) in relation to any person employed in any establishment through any contractor or agent for the execution on the premises of the establishment concerned by or under such contractor or agent of the whole or any part of any work which is ordinarily part of the trade, business, manufacture or industry of the establishment, the person engaging the services of the contractor or agent ;

(*16*) "establishment" means any unit of employment in any trade, business, manufacture, industry, service, calling, profession or other occupation or avocation, and includes any unit of employment under the authority of the Government or a local authority or an association of persons, whether incorporated or not, but does not include any unit of employment in which not more than ten persons are employed :

Provided that the appropriate Government may, by notification in the Official Gazette, declare any unit of employment employing not more than ten persons to be an establishment ;

*Explanation.*—For the purposes of this clause, the Central Government or a State Government may, by notification in the Official Gazette, specify the units of employment under the authority of such Government ;

(*17*) "independent person" for the purpose of appointment as Chairman or other member of any of the authorities under this Act, means a person who is not connected with, or interested in,—

(*a*) the labour dispute referred to, or pending before, such authority ; or

(*b*) any establishment directly affected by such dispute ;

(*18*) "Labour Court" means a Labour Court constituted by the appropriate Government under section 10 ;

(*19*) "labour dispute" means any dispute or difference * * * between an employer on the one hand and one or more of his employees, or a certified bargaining agent on the other, or between employees and employees, concerning—

(*a*) the employment or non-employment of any employee or class of employees ; or

(*b*) the terms or conditions of employment of any employee or employees generally or any class of them ; or

(*c*) the privileges, rights, duties or liabilities of the employer or of any employee or the employees generally or any class of them, whether or not there is a subsisting agreement between the employer and the employee or employees regarding all or any such matters ;

and includes any dispute or difference which may arise on the dismissal of an employee or which relates to the reinstatement of such employee ;

(*20*) "lock-out" means the closing of a place or part of a place of employment or the total or partial suspension of work by an employer or the total or partial refusal by an employer to continue to employ any group of his employees, where such closing, suspension, or refusal by an employer occurs in consequence of a labour dispute and is intended for the purpose of compelling his employees, or of aiding another employer to compel his employees to accept terms or conditions of, or affecting, employment ;

(*21*) "prescribed" means prescribed by rules made under this Act;

(*22*) "public utility service" means—

(*a*) any railway service or any other transport service operated by power for the carriage of passengers or goods by land, water or air;

(*b*) any section of an establishment (including the watch and ward staff) on the working of which depends the safety of that establishment or of the employees employed therein:

Provided that, if any question arises as to whether such safety depends on any section of the establishment, the decision thereon of the chief inspector of mines in respect of mines and of the chief adviser of factories, in respect of other establishments in relation to which the Central Government is the appropriate Government, and of the chief inspector of factories, in any other case, shall be final;

(*c*) any postal, telegraph or telephone service;

(*d*) any establishment which supplies power, light or water to the public;

(*e*) any system of public conservancy or sanitation;

(*f*) any hospital, nursing home, maternity home or fire-fighting service owned or managed by the Government or any local authority or managed under a trust created for public purposes of a charitable nature;

(*g*) any service in, or connected with, ports, docks, wharves or jetties which the Central Government may, by notification in the Official Gazette, declare to be a public utility service for the purposes of this Act;

(*h*) any mint or security press;

(*i*) any establishment or class of establishments which the Central Government may, if satisfied that it is essential for the defence or internal security of India, by notification in the Official Gazette, declare to be a public utility service for the purposes of this Act;

(*j*) any establishment or class of establishments which the appropriate Government may, if satisfied that public interest or emergency so requires, by notification in the Official Gazette, declare to be a public utility service for the purposes of this Act for such period as may be specified in the notification:

Provided that the period so specified shall not, in the first instance, exceed six months, but may, by a like notification, be extended from time to time by any period not exceeding six months at any one time, if in the opinion of the appropriate Government public interest or emergency requires such extension;

(*23*) "settlement" means a settlement arrived at in the course of negotiations or conciliation proceedings;

(*24*) "Standing Board" means a Standing Conciliation Board constituted by the appropriate Government under section 8;

(*25*) "standing orders" means orders relating to such of the matters set out in the First Schedule as may be applicable in each case;

(*26*) "strike" means a total or partial cessation of work by employees acting in combination, or a concerted refusal or a refusal under a common understanding, of any group of employees to continue to work * * * where such cessation or refusal by the employees occurs in consequence of a labour dispute and is intended for the purpose of compelling their employer, or of aiding the employees of any other establishment to compel their employer to accept terms or conditions of, or affecting, employment;

(*27*) "Tribunal" means a Labour Tribunal constituted by the appropriate Government under section 11;

(*28*) "wages" means all remuneration capable of being expressed in terms of money, which would, if the terms of employment, express or implied, were fulfilled, be payable to an employee in respect of his employment or of work done in such employment, and includes—

(*i*) such allowances (including dearness allowance) as the employee is for the time being entitled to;

(*ii*) the value of any house accommodation, or of supply of light, water, medical attendance or other amenity or of any service or of any concessional supply of food grains or other articles;

(*iii*) any travelling concession,

but does not include—

(*i*) any bonus or payment due under any scheme of profit-sharing payable periodically and not forming part of the remuneration payable under the terms of employment;

(*ii*) any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the employees under any law for the time being in force;

(*iii*) any gratuity payable to an employee on the termination of his service;

(*29*) the expressions "trade union", "registered trade union" and "recognised trade union" have the meanings respectively assigned to them in the Trade Unions Act, 1950;

(*30*) any reference to an enactment not in force in any Part B State shall, in relation to that State, be construed as a reference to the corresponding law in force in that State.

## CHAPTER II

### Authorities under the Act

3. *Authorities under the Act.*—For the purpose of giving effect to the provisions of this Act, the following authorities may be appointed or constituted in the manner hereinafter provided, namely:—

(*1*) Registering Officers,

(*2*) Works Committees,

(*3*) Conciliation Officers,

(*4*) Boards of Conciliation,

(*5*) Standing Conciliation Boards,

(6) Commissions of Inquiry,
(7) Labour Courts,
(8) Labour Tribunals,
(9) The Appellate Tribunal.

4. *Registering Officers.*—The appropriate Government may, by notification in the Official Gazette, appoint as many Registering Officers as may be necessary for the purpose of registering standing orders, and every Registering Officer shall exercise his functions in such area or areas as may be specified in the notification.

5. *Works Committees.*—(1) The appropriate Government may, by general or special order, require the employer of any establishment to constitute in the prescribed manner a Works Committee for the whole of the establishment or any such part thereof as may be specified in the order, and every such Works Committee shall consist of the representatives of the employer and the employees employed in that establishment or part of that establishment, as the case may be:

Provided that in no such Works Committee, the number of representatives of the employees shall be less than the number of representatives of the employer.

(2) The representatives of the employees on the Works Committee shall be chosen in the prescribed manner, in consultation with the certified bargaining agent, if any, or, if there is no such bargaining agent, with the recognised trade union, if any, or, if there is no such recognised trade union, with such trade unions, if any, as consist wholly or partly of the employees who are to be represented on the Works Committee.

(3) It shall be the duty of the Works Committee to promote measures for securing and preserving amity and good relations between the employer and employees, for increasing production, and for promoting the settlement of any labour dispute that may be voluntarily placed before such Committee by all the parties to the dispute.

6. *Conciliation Officers.*—(1) The Central Government may, in respect of establishments in relation to which it is the appropriate Government, appoint a Chief Conciliation Commissioner having jurisdiction over all such establishments and as many Additional Chief Conciliation Commissioners, Regional Conciliation Commissioners and Conciliation Officers as may be necessary and may, by general or special order, provide for the distribution or allocation of work to be performed by them under this Act.

(2) A State Government may, in respect of establishments in relation to which it is the appropriate Government, appoint a Chief Conciliation Officer for the State having jurisdiction over all such establishments within the State and as many Conciliation Officers as may be necessary and may, by general or special order, provide for the distribution or allocation of work to be performed by them under this Act.

(3) Any reference in this Act to the Chief Conciliation Officer shall, in respect of establishments in relation to which the Central Government is the appropriate Government, be construed as including a reference to the Chief Conciliation Commissioner and Additional Chief Conciliation Commissioners,

(4) A Conciliation Officer may be appointed for any specified area or for a specified class of establishments or for one or more specified labour disputes and shall discharge the duties imposed on him under this Act under the general superintendence and control of the Chief Conciliation Officer.

(5) It shall be the duty of Conciliation Officers to mediate in, and promote the settlement of, labour disputes.

7. *Boards of Conciliation.*—(1) The appropriate Government may, by notification in the Official Gazette, constitute a Board of Conciliation for promoting the settlement of any labour dispute referred to it:

Provided that where a Conciliation Officer has taken any steps to promote the settlement of such dispute, no such Board shall be constituted except with the consent of all the parties to the dispute.

(2) A Board shall consist of a Chairman and either two or four other members as the appropriate Government may think fit to appoint.

(3) The Chairman shall be an independent person and the other members shall be persons appointed in equal numbers, on the recommendation of the parties to the dispute, to represent those parties:

Provided that no Board shall be constituted if any party fails to make such recommendation within the prescribed time.

(4) A Board shall not act in the absence of the Chairman or of all the members representing either the employers or the employees.

(5) Subject to the provisions of sub-section (4), a Board may act, notwithstanding the absence of any member or any vacancy therein, if it has the prescribed quorum:

Provided that where the appropriate Government requires the Board not to act on account of any vacancy therein, the Board shall not act until a new member is appointed to fill the vacancy.

8. *Standing Conciliation Boards.*—(1) The appropriate Government may, by notification in the Official Gazette, constitute for any area or for any class of establishments specified in the notification, a Standing Conciliation Board for promoting the settlement of any labour dispute that may arise in such area or such establishments.

(2) A Standing Board shall consist of a Chairman and such number of other members as the appropriate Government may think fit to appoint.

(3) The Chairman shall be an independent person and the other members shall be persons appointed in equal numbers to represent the interests of the employers and employees.

(4) A Standing Board shall not act in the absence of the Chairman or of all the members representing either the employers or the employees.

(5) Subject to the provisions of sub-section (4), a Standing Board may act, notwithstanding the absence of any member or any vacancy therein, if it has the prescribed quorum:

Provided that where the appropriate Government requires the Standing Board not to act on account of any vacancy therein, the Standing Board shall not act until a new member is appointed to fill the vacancy.

(6) Where any Standing Board is constituted under this section, no Board shall be constituted under section 7 for promoting the settlement of any labour dispute arising within the jurisdiction of the Standing Board.

(7) Notwithstanding the constitution of a Standing Board under this section, where any labour dispute arising within its jurisdiction * * * is referred by the appropriate Government to a * Tribunal under section 47; or where in respect of that dispute, an application is presented under section 61 to a Labour Court, the Standing Board, on such reference or on the presentation of such an application, as the case may be, shall cease to have jurisdiction over that dispute.

9. *Commission of Inquiry.*—(1) The appropriate Government may, by notification in the Official Gazette, constitute a Commission of Inquiry for inquiring into any matter referred to it whether or not such matter is connected with, or relevant to, a labour dispute.

(2) A Commission may consist of one independent person or of such an odd number of independent persons as members as the appropriate Government may think fit to appoint and, where a Commission consists of more than one member, one of them shall be appointed as the Chairman thereof.

(3) Where a Commission consists of more than one member, the Commission may act, notwithstanding the absence of the Chairman or of any other member or any vacancy therein, if it has the prescribed quorum :

Provided that where the appropriate Government requires the Commission not to act on account of any vacancy therein, the Commission shall not act until a new Chairman or member, as the case may be, is appointed to fill the vacancy.

10. *Labour Courts.*—(1) The appropriate Government may, by notification in the Official Gazette, constitute as many Labour Courts as it deems necessary for the adjudication of labour disputes relating to any matter which is not specified in the Second Schedule and for discharging such other functions as may be assigned to them under this Act.

(2) A Labour Court shall be presided over by a person, appointed by the appropriate Government, who—

(a) is or has been a member of the judicial * * service in a State, or

(b) is or has been a member of an executive service in a State having not less than two years' experience in dealing with matters regulating the relationship between employers and employees, or

(c) is qualified for appointment as a member of the judicial service in a State :

Provided that the maximum age limit, if any, applicable to the appointment of a member of such service shall not apply to any appointment under this section :

Provided further that no appointment under this section shall be made except with the approval of the High Court of the State in which the Labour Court has, or is intended to have, its usual seat.

11. *Labour Tribunals.*—(*1*) The appropriate Government may, by notification in the Official Gazette, constitute as many Labour Tribunals as it deems necessary for discharging the functions assigned to them under this Act.

(*2*) A Tribunal shall consist of such number of members as the appropriate Government may think fit to appoint, and where the Tribunal consists of two or more members, one of them shall be appointed as the Chairman thereof :

Provided that where the labour dispute affecting any banking or insurance company is referred to a Tribunal, a person having special knowledge of, and experience in, banking or insurance, as the case may be, shall be appointed as a member of the Tribunal.

(*3*) Where the Tribunal consists of only one member, that member, and where it consists of two or more members, the Chairman of the Tribunal, shall be a person who—

(*a*) is or has been a Judge of a High Court, or * * *

(*b*) is or has been a district judge, or

(*c*) has been the presiding officer of a Labour Court for not less than three years, or

(*d*) is qualified for appointment as a Judge of a High Court, or

(*e*) has special knowledge of, and experience in, banking or insurance :

Provided that no appointment under this section to a Tribunal shall be made of any person not qualified under clause (*a*) or clause (*e*) except with the approval of the High Court of the State in which the Tribunal has, or is intended to have, its usual seat.

(*4*) All members of the Tribunal shall be independent persons and every member thereof, other than those referred to in sub-section (*3*), shall possess such qualifications as may be prescribed.

(*5*) A Tribunal, where it consists of two or more members, may act notwithstanding the absence of any member or any vacancy therein.

12. *Appellate Tribunal.*—(*1*) The Central Government may, by notification in the Official Gazette, constitute an Appellate Tribunal for hearing appeals from the awards of Tribunals in accordance with the provisions of this Act.

(*2*) The Appellate Tribunal shall consist of a Chairman and such number of other members as the Central Government may think fit to appoint.

(*3*) Every member of the Appellate Tribunal shall be an independent person who—

(*a*) is or has been a Judge of a High Court, or

(*b*) is qualified for appointment as a Judge of a High Court, or

(*c*) has been a member of a Tribunal for not less than two years, or

(*d*) has special knowledge of, and experience in, banking or insurance :

Provided that no appointment under this section to the Appellate Tribunal shall be made of any person not qualified under clause (*a*) or clause (*d*) except with the approval of the Supreme Court.

(*4*) A member shall, unless otherwise specified in the order of appointment, hold office for a term of five years from the date on which he enters upon his office and shall, on the expiry of the term of his office, be eligible for reappointment :

Provided that no member shall hold office after he has attained the age of sixty-five years.

(*5*) A member shall be entitled to such salary and allowances and to such rights in respect of leave and pensions as may be prescribed :

Provided that the salary of a member shall not be varied to his disadvantage after his appointment.

13. *Filling of vacancies.*—(*1*) If for any reason the services of the Chairman or any other member of a Board or Standing Board cease to be available at any time, the appropriate Government shall appoint another person in accordance with the provisions of section 7 or section 8, as the case may be, to fill the vacancy and the proceedings may be continued before the Board or Standing Board so reconstituted from the stage at which the vacancy occurred.

(*2*) If for any reason the services of the Chairman or any other member of a Commission, Tribunal or the Appellate Tribunal cease to be available, the appropriate Government or, as the case may be, the Central Government shall, in the case of a Chairman, and may, in the case of any other member, appoint another person in accordance with the provisions of section 9 or section 11 or section 12, as the case may be, to fill the vacancy and the proceedings may be continued before the Commission, Tribunal or Appellate Tribunal so reconstituted from the stage at which the vacancy occurred.

* * * * * *

(*3*) If for any reason the services of the presiding officer of any Labour Court cease to be available, the appropriate Government may appoint another person in accordance with the provisions of section 10 to fill the vacancy and the proceedings may be continued before the person so appointed from the stage at which the vacancy occurred.

14. *Finality of orders constituting Board, Commission, etc.*—No order of the appropriate Government appointing any person as a Chairman or a member of a Board, Standing Board, Commission, Labour Court or Tribunal or of the Central Government appointing any person as a Chairman or other member of the Appellate Tribunal shall be called in question in any manner.

## CHAPTER III

### Standing Orders and Registering Officers

15. *Scope of application of standing orders.*—The provisions of this Chapter shall apply to every establishment in which not less than one hundred persons are employed on any day in any work which is ordinarily part of the trade,

business, manufacture or industry of the establishment and may be applied by the appropriate Government, by notification in the Official Gazette, to any other establishment or class of establishments in which less than one hundred persons are so employed, and shall, on the commencement of this Act, * apply to all establishments in which not less than one hundred persons were so employed on any day in the twelve months preceding the date of such commencement.

16. *Submission of draft of standing orders.*—(*1*) Within six months from the date on which this Chapter becomes applicable to any establishment, the employer of such establishment shall submit to the Registering Officer concerned five copies of the draft of the standing orders proposed by him for adoption in his establishment.

(*2*) Such draft shall provide for all matters specified in the First Schedule in so far as they are applicable to that establishment, and where model standing orders have been prescribed, such draft shall, as far as may be, conform to such model.

(*3*) The draft standing orders submitted under sub-section (*1*) shall be accompanied by a statement giving the prescribed particulars of the employees employed in the establishment.

(*4*) Subject to such conditions as may be prescribed, a group of employers in similar establishments may submit a joint draft of standing orders under this section.

(*5*) Notwithstanding anything contained in sub-section (*1*), where standing orders are in force in any establishment on the date on which this Chapter becomes applicable to that establishment, and such standing orders are not in conformity with the provisions of this Act, the employer shall, within the period referred to in sub-section (*1*), apply to have the standing orders amended to bring them in conformity with the provisions of this Act and such application shall be accompanied by five copies of the standing orders together with the amendments proposed to be made, and the provisions of this Chapter shall apply in relation to an application under this sub-section as they apply in relation to draft standing orders submitted under sub-section (*1*).

17. *Conditions for registration of standing orders.*—Standing orders in respect of any establishment shall be registrable under this Act if—

(*a*) provision is made therein for every matter specified in the First Schedule which is applicable to that establishment, and

(*b*) the standing orders are otherwise in conformity with the provisions of this Act.

18. *Registration of standing orders.*—(*1*) On receipt of the draft standing orders under section 16, the Registering Officer shall forward a copy thereof to the employees, in such manner as may be prescribed, together with a notice in the prescribed form requiring the employees to submit objections, if any, within fifteen days from the date of the receipt of such notice.

(*2*) After giving the employer and the employees an opportunity of being heard, the Registering Officer shall, within two months from the date of the receipt of the standing orders, by order in writing, either confirm or amend the draft standing orders; and the draft standing orders as confirmed or amended shall be registered.

(*3*) The Registering Officer shall, within seven days from the date of registration under sub-section (*2*), send copies of the registered standing orders authenticated in the prescribed manner to the employer and the employees.

19. *Appeal.*—(*1*) Any person aggrieved by an order of the Registering Officer under sub-section (*2*) of section 18 may, within twenty-one days from the date on which the authenticated copies are sent under sub-section (*3*) of that section, prefer an appeal to a Tribunal designated for the purpose and the Tribunal shall, after giving the parties an opportunity of being heard, by order in writing, either confirm or amend the registered standing orders.

(*2*) The Tribunal shall, within seven days of the order passed under sub-section (*1*), send a copy of such order authenticated in the prescribed manner to the employer, the employees and the Registering Officer concerned; and the standing orders registered under this Act shall be modified accordingly.

20. *Commencement of operation of standing orders.*—(*1*) Standing orders registered under this Act shall, unless an appeal is preferred under section 19, come into operation on the expiry of thirty days from the date on which authenticated copies thereof are sent under sub-section (*3*) of section 18, or where an appeal as aforesaid is preferred, on the expiry of thirty days from the date on which copies of the order of the Tribunal are sent under sub-section (*2*) of section 19.

(*2*) Where standing orders are in force in any establishment on the date on which this Chapter becomes applicable to that establishment, such standing orders shall continue to be in force in that establishment until they are modified and registered in accordance with the provisions of this Act.

(*3*) Where model standing orders have been prescribed by the appropriate Government in respect of any establishment or class of establishments in which there are no standing orders in force, such model standing orders shall be deemed to be in operation in that establishment or class of establishments until they are amended in the manner provided in section 21.

21. *Special provision relating to model standing orders.*—(*1*) Where model standing orders have been prescribed by the appropriate Government in respect of any establishment or class of establishments and an employer proposes to adopt in his establishment such model standing orders without any amendment, he may, in lieu of submitting draft standing orders under section 16, post, within the period referred to in sub-section (*1*) of the said section, a copy of the model standing orders in the manner provided for in section 23 with a certificate that he has adopted them without amendment, and send a report to the Registering Officer, and the model standing orders shall be registered accordingly.

(*2*) Where an employer proposes to amend model standing orders before adopting them, he may, either submit draft standing orders under section 16 or apply to have the model standing orders amended, and the application shall be accompanied by five copies of the amendments proposed to be made and the provisions of this Chapter shall apply in relation to such application as they apply to draft standing orders submitted under section 16.

(*3*) Any person aggrieved by the adoption of the model standing orders under sub-section (*1*) may, within twenty-one days from the date on which they are posted under section 23, prefer an appeal to a Tribunal as provided in section 19.

22. *Register of standing orders.*—The Registering Officer shall maintain a register in the prescribed form for filing copies of the standing orders registered under this Act.

23. *Posting of standing orders.*—The text of the standing orders registered under this Act shall be prominently posted by the employer in English or Hindi and in a language understood by the majority of his employees on special notice boards to be maintained for the purpose at or near the entrance through which the majority of the employees enter the establishment and in all departments thereof. * * *

24. *Amendment of standing orders.*—(*1*) Standing orders registered under this Act shall not be amended until the expiry of one year from the date on which the said standing orders or the latest amendments thereof came into operation :

Provided that such amendment may be made at any time by agreement between the employer and the employees.

(*2*) Subject to the provisions of sub-section (*1*), an employer or employee may apply to the Registering Officer to have the standing orders amended and such application shall be accompanied by five copies of the standing orders together with the amendments proposed to be made, and where such amendments are proposed to be made by agreement between the employer and the employees, a certified copy of that agreement shall be filed along with the application.

(*3*) The provisions of this Chapter shall, as far as may be, apply in relation to an application under sub-section (*2*) as they apply in relation to the draft standing orders submitted under section 16.

25. *Exclusion of evidence of oral agreement.*—No evidence of any oral agreement or statement shall be admitted by any authority under this Act for the purposes of contradicting, varying, adding to, or substracting from, the terms of the standing orders registered under this Act.

26. *Power to exempt.*—The appropriate Government may, by notification in the Official Gazette, exempt, subject to such conditions, if any, as may be specified in the notification, any establishment or class of establishments from the operation of all or any of the provisions of this Chapter.

## CHAPTER IV

### Statement of Disputes by Negotiation and Conciliation Officers.

27. *Notice of labour disputes.*—(*1*) Where for any reason a labour dispute has arisen or is likely to arise between an employer and an employee, the employee or, as the case may be, the employer may send a notice, in the prescribed manner, to the other party setting out the nature of the dispute and the * demands that the other party is required to accept and requiring the other party to enter into negotiations, within seven days of the date of the receipt of the notice, with a view to the settlement of the labour dispute ;

Provided that where an employer proposes to alter the conditions of service of any employee in respect of any of the matters specified in the Third Schedule, such notice shall be sent.

(*2*) Copies of the notice under sub-section (*1*) shall be sent by registered post to the appropriate Government, the Chief Conciliation Officer and the Conciliation Officer having jurisdiction over the dispute.

28. *Commencement of negotiations.*—Within seven days of the date of the receipt of the notice under section 27, the employer or, as the case may be, the employee shall—* * *

(*a*) furnish to the other party a written statement specifying the demands which are acceptable to him and the demands which are not so acceptable with the reasons for such non-acceptance and

(*b*) enter into negotiations with the other party in the prescribed manner with a view to settle the labour dispute.

29. *Period within which negotiations to be concluded.*—All negotiations commenced under section 28 shall be concluded * * within fourteen days * * * of the date of commencement of such negotiations :

Provided that such period may be extended by agreement between the parties.

30. *Proceedings before Conciliation Officer.*—(*1*) On receipt of a notice under section 27, the Conciliation Officer shall, in the case of a dispute concerning public utility service, and may, in any other case, hold conciliation proceedings in the prescribed manner.

(*2*) The Conciliation Officer shall, without delay, investigate the dispute and all matters affecting the merits and the right settlement thereof and may do all such things as he thinks fit for the purpose of inducing the parties to come to an amicable settlement of the dispute.

(*3*) The Conciliation Officer shall, after concluding his investigation, submit his report as early as possible and in any case within thirty days of the receipt of the notice under section 27 or such longer time as may be agreed upon by both the parties.

31. *Registration of settlement.*—Where a settlement of the dispute or of any of the matters in dispute is arrived at in the course of negotiations under section 29 or conciliation proceedings under section 30, the party which served the notice under section 27 or, where conciliation proceedings have been held, the Conciliation Officer shall, within seven days of the conclusion of negotiations, send a report thereof together with a memorandum of the settlement signed by the parties to the dispute to the Chief Conciliation Officer and the appropriate Government ; and the Chief Conciliation Officer shall register the settlement in such manner as may be prescribed.

32. *Report of failure of conciliation.*—Where conciliation proceedings have been held but no settlement is arrived at, the Conciliation Officer shall submit to the Chief Conciliation Officer and the appropriate Government, as soon as

* practicable after the close of the conciliation proceedings and in any case, within the period referred to in sub-section (3) of section 30, a full report setting forth the steps taken by him for bringing about a settlement of the labour dispute together with a full statement of such facts and circumstances and the reasons on account of which, in his opinion, a settlement could not be arrived at, and copies of the report shall be simultaneously sent to the parties to the dispute.

## CHAPTER V

### Collective Bargaining and Conciliation Officers

33. *Scope of collective bargaining.*—(*1*) The appropriate Government may, by notification in the Official Gazette, declare any establishment or class of establishments in any local area to be appropriate for collective bargaining.

(*2*) Where in respect of any establishment or class of establishments declared under sub-section (*1*) to be appropriate for collective bargaining, a bargaining agent has been certified under this Act, the provisions of this Chapter shall, and the provisions of Chapter IV shall not, apply in relation to that establishment or class of establishments.

34. *Application for certification as bargaining agent.*—(*1*) For the purpose of being certified as a bargaining agent in respect of any establishment or class of establishments in any local area, an application may, in the prescribed manner, be made to a Labour Court by—

(*a*) a representative trade union, or

(*b*) the representatives of employees of that establishment or class of establishments in that area elected in the prescribed manner.

(*2*) A representative trade union, in relation to all the employees employed in any class of establishments in any local area, means a registered trade union having a membership in good standing of not less than—

(*a*) twenty-five per cent of the total number of employees employed in that class of establishments in that area; and

(*b*) seven and half per cent of the total number of employees employed in each of not less than seventy-five per cent of the establishments included in that class.

(*3*) A representative trade union, in relation to any particular class or classes of skilled or other distinctive type of employees, means a registered trade union which consists wholly of such employees and which has a membership in good standing—

(*a*) in cases where the trade union is to represent a class of establishments in any local area, of not less than—

(*i*) fifty per cent of the total number of such employees employed in that class of establishments in that area; and

(*ii*) fifteen per cent of the total number of such employees employed in each of not less than seventy-five per cent of the establishments included in that class; and

(*b*) in cases where the trade union is to represent a particular establishment only, of not less than fifty per cent of the total number of such employees employed in that establishment.

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(4) A representative trade union, in relation to all the employees employed in any particular establishment, means a registered trade union having a membership in good standing of not less than fifty per cent of the total number of employees in that establishment.

*Explanation.*—For the purposes of this section, a membership of a trade union shall be deemed to be in good standing if the member is not in arrears of his subscription for any period exceeding three calendar months.

35. *Certification by Court.*—(1) A Labour Court may, on application received in this behalf, certify a representative trade union as—

(a) a general bargaining agent, if it is a representative trade union within the meaning of sub-section (2) of section 34;

(b) a special bargaining agent, if it is a representative trade union within the meaning of sub-section (3) of section 34;

(c) a local bargaining agent, if it is a representative trade union within the meaning of sub-section (4) of section 34;

(2) Where there is no such representative trade union, the elected representatives of the employees may be certified as a general, special or local bargaining agent in relation to all the employees or any particular class of employees employed in any establishment or class of establishments according as such representatives are elected by all the employees or the particular class of employees employed in that establishment or class of establishments.

(3) For the purpose of certifying a bargaining agent, a Labour Court may take such evidence and make such inquiries and examine such records as it deems necessary and it shall consider if the following conditions have been complied with, namely:—

(a) that there shall not, at any time, be more than one general bargaining agent, in respect of the same class of establishments situated within the same local area;

(b) that there shall not, at any time, be more than one special bargaining agent, in respect of the same class of employees in any establishment or class of establishments in the same local area:

Provided that where there is a special bargaining agent in respect of a class of establishments, no special bargaining agent in respect of any particular establishment included in that class shall be certified;

(c) that there shall not, at any time, be more than one local bargaining agent, in respect of the same establishment;

(d) that the trade union applying for certification fulfils the conditions laid down in section 34;

(e) that where more than one registered trade union fulfils such conditions, the trade union having the largest membership in good standing shall have preference to others:

Provided that a trade union applying for being certified as a special bargaining agent in respect of a class of establishments shall have preference to any trade union applying for being certified as a special bargaining agent in respect of any particular establishment included in that class.

36. *Effect of certification.*—(*1*) Where there is a certified general bargaining agent only (there being no special or local bargaining agent) in respect of any establishment or class of establishments or a certified local bargaining agent only (there being no general or special bargaining agent) in respect of any establishment, such certified bargaining agent shall immediately replace all other agents of the employees to enter into negotiations with the employer and, so long as the certification is not revoked, shall have authority to bargain collectively on behalf of all the employees in that establishment or class of establishments, as the case may be, and to bind them by a collective agreement :

Provided that where in addition to a general bargaining agent a local bargaining agent is certified in respect of any establishment, the local bargaining agent shall have authority to enter into negotiations with the employer and bargain collectively on behalf of all the employees employed in that establishment in respect of any matter which is of exclusive concern to the employees of that establishment :

Provided further that where a special bargaining agent is certified in respect of any establishment or class of establishments (whether or not there is a general or local bargaining agent), the special bargaining agent shall have authority to enter into negotiations with the employer and bargain collectively on behalf of the particular class or classes of employees it represents in respect of any matter which is of exclusive concern to such class or classes of employees employed in that establishment or class of establishments.

(*2*) Where any bargaining agent has been certified in relation to the employees or any class of employees in any establishment or class of establishments and another bargaining agent had previously been certified in relation to the same employees or class of employees, the previous certification shall be deemed to have been revoked in respect of such employees or class of employees :

Provided that where a special bargaining agent in respect of a class of establishments is certified and a special bargaining agent in respect of a particular establishment included in that class had been previously certified, the previous certification of the special bargaining agent in respect of that particular establishment shall be deemed to have been revoked.

(*3*) Where, at the time of certification of a bargaining agent, a collective agreement is in force, the new bargaining agent shall be substituted as a party to the agreement.

(*4*) If any dispute arises under this section in respect of the jurisdiction of a general bargaining agent, special bargaining agent or local bargaining agent, any party to the dispute may apply to a Labour Court for adjudication of such dispute and the order of the Labour Court shall, subject to the provision for appeal, be final and binding on the parties.

37. *Revocation of certification.*—The Labour Court may revoke the certification of a bargaining agent—

(*a*) where the Court is satisfied that the certified bargaining agent has, for not less than three consecutive months, ceased to fulfil the conditions which entitled such bargaining agent to be certified ; or

(*b*) where the certified bargaining agent refuses or fails to give effect to any term of collective agreement ; or

(*c*) where the certified bargaining agent resorts to any unfair practice under the Trade Unions Act, 1950.

38. *Subsequent application for certification as bargaining agent.*—Where there is a certified bargaining agent in relation to the employees of any establishment or class of establishments, no fresh application for certification as bargaining agent for the same employees to replace the former bargaining agent shall be entertained by the Labour Court—

(*a*) in cases where there is no collective agreement in force, until the expiry of one year from the date of certification of the former bargaining agent; or

(*b*) in cases where there is a collective agreement in force, until the expiry of ten months from the date of the conclusion of that agreement: Provided that such application may be made before the expiry of the aforesaid periods with the previous permission of the Labour Court.

39. *Notice to negotiate.*—(*1*) The certified bargaining agent on behalf of the employees or, as the case may be, the employer may send a notice, in the prescribed manner, to the other party setting out the * demands that the other party is required to accept and requiring the other party to commence collective bargaining within seven days of the date of the receipt of the notice, with a view to the conclusion of a collective agreement:

Provided that where an employer proposed to alter the conditions of service of an employee in respect of any of the matters specified in the Third Schedule, such notice shall be sent:

Provided further that where a collective agreement is in force between the employer and the employees of any establishment or class of establishments, such notice shall not be sent, in respect of any matter covered by that agreement, before the period of two months next preceding the date of the expiry of the term of, or preceding the termination of, the agreement, with a view to the renewal or revision of the agreement or conclusion of a new collective agreement.

(*2*) Copies of the notice under sub-section (*1*) shall be sent by registered post to the appropriate Government, the Chief Conciliation Officer and the Conciliation Officer having jurisdiction over such establishment or class of establishments.

40. *Commencement of collective bargaining.*—Within seven days of the date of the receipt of notice under section 39 or such further time as may be agreed upon between the parties, the employer, or, as the case may be, the certified bargaining agent shall—

(*a*) furnish to the other party a written statement specifying the demands which are acceptable to him and the demands which are not so acceptable with reasons for such non-acceptance; and

(*b*) enter into collective bargaining with the other party in the prescribed manner with a view to the conclusion of a collective agreement.

41. *Period within which collective bargaining is to be concluded.*—Any collective bargaining commenced under section 40 shall be concluded within fourteen days of the date of such commencement:

Provided that such period may be extended by agreement between the parties.

42. *Provision for final settlement without stoppage of work.*—(*1*) Every collective agreement shall contain a provision for final settlement, without stoppage of work, by adjudication or otherwise, of all differences between the persons bound by the agreement and arising out of the interpretation of, or breach of, the terms of the agreement.

(*2*) Where a collective agreement does not contain a provision as required by sub-section (*1*), the Labour Court shall, on an application of either party to the agreement, by order, prescribe a provision for such purpose and the provision so prescribed shall be deemed to be a term of the collective agreement and binding on all persons bound by that agreement.

43. *Special provision relating to persons on whom collective agreement is binding.*—A collective agreement between an employer and a certified bargaining agent shall be binding upon—

(*a*) that employer, and

(*b*) that bargaining agent and all the employees * * * in relation to whom the bargaining agent has been certified.

44. *Proceedings before Conciliation Officer.*—(*1*) On receipt of a notice under section 39, the Conciliation Officer shall, in the case of a public utility service, and may, in any other case, hold conciliation proceedings in the prescribed manner.

(*2*) The Conciliation Officer shall, without delay, investigate the dispute and all matters affecting the merits and the right settlement thereof and may do all such things as he thinks fit for the purpose of assisting the parties engaged in the collective bargaining to conclude a collective agreement.

(*3*) The Conciliation Officer shall, after concluding his investigation, submit his report as early as possible and in any case, within thirty days of the receipt of the notice under section 39 or such longer time as may be agreed upon by both the parties.

45. *Registration of collective agreements.*—Where a collective agreement has been concluded, the party which served the notice under section 39 or, where conciliation proceedings have been held, the Conciliation Officer shall, within seven days of the conclusion of collective bargaining, send a copy of the collective agreement signed by both the parties to the Chief Conciliation Officer and the appropriate Government; and the Chief Conciliation Officer shall register the collective agreement in such manner as may be prescribed.

46. *Report of failure of conciliation.*—Where conciliation proceedings have been held but no collective agreement is concluded, the Conciliation Officer shall submit to the Chief Conciliation Officer and the appropriate Government, as soon as practicable and in any case, within the period referred to in sub-section (*3*) of section 44, a full report setting forth the steps taken by him for bringing about an agreement between the parties together with a full statement of such facts and circumstances and the reasons on account of which, in his opinion, the agreement could not be concluded, and copies of the report shall be simultaneously sent to the parties to the dispute.

## CHAPTER VI

### REFERENCES OF DISPUTES AND OTHER MATTERS TO BOARDS, TRIBUNALS AND COMMISSIONS BY APPROPRIATE GOVERNMENT

47. *Reference of disputes to Boards or Tribunals.*—(*1*) Where the appropriate Government is of opinion that any labour dispute exists or is apprehended, it may at any time, by order in writing, refer the dispute or any matter appearing to it to be connected with, or relevant to, such dispute—

(*a*) to a Board for promoting the settlement thereof; or

(*b*) to a Tribunal for adjudication:

Provided that where a Conciliation Officer has taken any steps to promote the settlement of a dispute, no reference shall be made to a Board of that dispute except with the consent of all the parties thereto:

Provided further that where Labour Courts have been constituted under section 10, no reference shall be made to a Tribunal unless the dispute relates to any matter specified in the Second Schedule:

Provided also that where the dispute relates to a public utility service and a notice of strike under section 104 has been given, the appropriate Government shall, unless for reasons to be recorded, it considers that the notice has been frivolously or vexatiously given or that it is inexpedient so to do, refer the dispute or announce its intention to refer the dispute under this sub-section before the date of strike specified in the said notice.

(*2*) Where the parties to a labour dispute apply, in the prescribed manner for a reference of the dispute to a Board or Tribunal, the appropriate Government shall, if it is of opinion that the persons applying represent the majority of each party, refer the dispute accordingly.

*Explanation.*—For the purposes of this sub-section, a certified bargaining agent * * * shall be deemed to represent the majority of the employees for whom it has been so certified.

48. *Specification of points of dispute in certain cases.*—Where any dispute is refered under section 47 to a Tribunal for adjudication, the appropriate Government may specify the points of dispute between the parties, and in such a case, the Tribunal shall not adjudicate upon any matter not comprised in the points so specified.

49. *Inclusion of other establishments in a reference to a Tribunal.*—Where a dispute concerning any establishment or establishments is referred to a Tribunal under section 47 and the appropriate Government is of opinion either of its own motion or on an application received in this behalf, that the dispute is of such a nature that any other establishment, group or class of establishments of a similar nature is likely to be interested in, or affected by, such dispute, the appropriate Government may, at the time of making the reference or at any time thereafter, but before the pronouncement of the award by order in writing, include in that reference such establishment, group or class of establishments, whether or not at the time of such inclusion, any dispute exists or is apprehended, in that establishment, group or class of establishments.

50. *Reference to Commission.*—(*1*) The appropriate Government may, by order in writing, refer any matter to the Commission for inquiry whether or not such matter is connected with, or relevant to, a labour dispute.

(*2*) Where the employer and the employees of any establishment or class of establishments apply in the prescribed manner, for the reference of any matter to a Commission, the appropriate Government shall, if it is of opinion that the persons applying represent the majority of each party, refer the matter accordingly.

*Explanation.*—For the purposes of this sub-section, a certified bargaining agent * * * shall be deemed to represent the majority of the employees for whom it has been so certified.

51. *Power to refer additional disputes or matters.*—Where any dispute or matter is pending before a Board, Commission or Tribunal, the appropriate Government may, by order in writing, refer any other labour dispute or matter that may arise between the same parties to the same Board, Commission or Tribunal for settlement, inquiry or adjudication as the case may be.

52. *Power to * * transfer cases.*—The appropriate Government may, by order in writing and for reasons to be stated therein, at any stage * * * transfer any case pending before a Labour Court or Tribunal to another Labour Court or Tribunal for adjudication or for the hearing of the appeal, as the case may be, and the Court or Tribunal to which the case is so transferred may, subject to any special directions in the order of transfer, proceed either *de novo* or from the stage at which it was transferred.

## CHAPTER VII

### Commissions of Inquiry and Conciliation Boards

53. *Duties of Commission of Inquiry.*—A Commission of Inquiry shall inquire into the matters referred to it and report thereon to the appropriate Government within a period of six months from the date on which the reference was made to it:

Provided that the appropriate Government may extend or reduce such period. * * * * *

54. *Duties of Boards of Conciliation.*—(*1*) Where a dispute has been referred to a Board under this Act, it shall be the duty of the Board to endeavour to bring about a settlement of the same and for this purpose the Board shall, in such manner as it thinks fit and without delay, investigate the dispute and all matters affecting the merits and the right settlement thereof and may do all such things as it thinks fit for the purpose of inducing the parties to come to an amicable settlement of the dispute.

(*2*) Where a settlement of the dispute or of any of the matters in dispute is arrived at in the course of conciliation proceedings, the Board shall send a report thereof to the appropriate Government together with a memorandum of the settlement signed by the parties to the dispute and the settlement shall be registered in such manner as may be prescribed.

(*3*) Where no such settlement is arrived at, the Board shall, as soon as practicable after the close of the investigation, send to the appropriate Government a full report setting forth the steps taken by it for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances and the reasons on account of which, in its opinion, a settlement could not be arrived at and its recommendations for the determination of the dispute.

(*4*) Where the dispute concerns a public utility service, the appropriate Government may, on receipt of the report under sub-section (*3*), refer that dispute to a Tribunal for adjudication if such dispute may be so referred under section 47, and where no such reference is made, the appropriate Government shall record its reasons therefor and communicate them to the parties concerned.

(*5*) The Board shall submit its report under this section within one month of the date on which the reference was made to it and simultaneously forward copies thereof to the parties concerned :

Provided that the time for submission of the report may be extended by the appropriate Government from time to time by any period not exceeding two months in the aggregate :

Provided further that such time may be extended by such periods as may be agreed upon in writing by all the parties to the dispute.

### Standing Conciliation Boards

55. *Jurisdiction of Standing Conciliation Boards.*—A Standing Conciliation Board shall have jurisdiction for promoting the settlement of all labour disputes arising in such area or in such class of establishments as may be specified in this behalf by the appropriate Government by notification in the Official Gazette.

56. *Application for settlement of labour disputes.*—An application for the settlement of a labour dispute may be made to the Standing Board by any party to the dispute in such form and in such manner as may be prescribed.

57. *Duties of Standing Conciliation Boards.*—(*1*) On receipt of an application under section 56, it shall be the duty of the Standing Board to endeavour to bring about a settlement of the dispute and for this purpose the Standing Board shall, in such manner as it thinks fit and without delay, investigate the dispute and all matters affecting the merits and the right settlement thereof and may do all such things as it thinks fit for the purpose of inducing the parties to come to an amicable settlement of the dispute.

(*2*) Where a settlement of the dispute or of any of the matters in dispute is arrived at in the course of conciliation proceedings, the Standing Board shall send a report thereof to the appropriate Government and the Chief Conciliation Officer together with a memorandum of the settlement signed by the parties to the dispute and the settlement shall be registered in such manner as may be prescribed.

(*3*) Where no such settlement is arrived at, the Standing Board shall, as soon as practicable after the close of the investigation, send to the appropriate Government and the Chief Conciliation Officer a full report setting forth the

steps taken by it for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances on account of which, in its opinion, a settlemnt could not be arrived at, and its recommendations for the determination of the dispute.

(4) Where the dispute concerns a public utility service, the appropriate Government may, on receipt of a report under sub-section (3), refer that dispute to a Tribunal for adjudication if such dispute may be so referred under section 47, and where no such reference is made, the appropriate Government shall record its reasons therefor and communicate them to the parties concerned.

(5) The Standing Board shall submit its report within one month of the date of the receipt of an application under section 56 and simultaneously forward copies thereof to the parties concerned:

Provided that the time for submission of the report may be extended by such periods as may be agreed upon in writing by all the parties to the dispute.

58. *Form of report.*—(1) The report of a Commission or Board or Standing Board shall be in writing and signed by all the members of the Commission, Board or Standing Board, as the case may be:

Provided that such report shall not be invalid merely because it has not been signed by any member of a Board or Standing Board or where the Commission consists of more than one member, by any member thereof.

(2) Nothing in sub-section (1) shall be deemed to prevent a member from recording a minute of dissent from the report or from any recommendation made therein.

59. *Publication of report.*—The report of a Commission, Board or Standing Board, together with any minute of dissent recorded therewith, shall, within a period of one month from the date of its receipt by the appropriate Government, be published in such manner as it thinks fit.

## CHAPTER VIII

### Labour Courts and Labour Tribunals

#### *Labour Courts*

60. *Jurisdiction of Labour Courts.*—A Labour Court shall have jurisdiction to adjudicate upon all labour disputes arising in such area or in such class of establishments as may be specified in this behalf by the appropriate Government by notification in the Official Gazette and for discharging such other functions as may be assigned to them under this Act.

*Explanation.*—For the purposes of this section "labour dispute" means any labour dispute relating to any matter which is not specified in the Second Schedule. * * *

61. *Application for adjudication of labour disputes.*—(*1*) An application to the Labour Court for adjudication of a labour dispute may be made by any party to that dispute within three months from the date on which notice of such dispute is served under section 27 or section 39, as the case may be.

*Explanation.*—For the purposes of this sub-section, in computing the period of three months, the time by which the period of negotiation, collective bargaining or conciliation proceeding has been extended by agreement between the parties under section 29 or section 41 or section 54 or section 57, as the case may be, shall be excluded.

(*2*) An application under sub-section (*1*) shall be made in such form and in such manner as may be prescribed.

62. *Proceedings before the Court.*—(*1*) On receipt of an application under section 61, the Labour Court shall, after giving the parties interested in the application an opportunity of being heard, hear the dispute as expeditiously as possible.

(*2*) The Labour Court shall, subject to the rules made under this Act, maintain a record of the proceedings before it including the statements of parties and witnesses and relevant documents.

(*3*) The Labour Court shall, after hearing the dispute, pronounce its order in open court either at once or on some future date to which the case is adjourned for that purpose.

(*4*) The order of the Labour Court shall be in writing and signed by the presiding officer.

(*5*) The order of the Labour Court shall come into operation with effect from such date as may be specified therein, and where no such date is so specified, it shall come into operation on the date of the order.

(*6*) The order of a Labour Court shall be published within fifteen days of its pronouncement in such manner as may be prescribed.

*Labour Tribunals*

63. *Jurisdiction of Tribunals.*—A Tribunal shall have jurisdiction—

(*a*) to adjudicate upon all labour disputes referred to it under section 47;

(*b*) to hear all appeals under section 19, and where Labour Courts have been constituted under section 10, to hear all appeals from the orders of such courts; and

(*c*) to hear all applications made to it under section 70.

*Adjudication by Tribunals*

64. *Proceedings before Tribunals.*—(*1*) Where a labour dispute has been referred to a Tribunal for adjudication, it shall, after giving the parties concerned an opportunity of being heard, hold its proceedings as expeditiously as possible.

(2) The Tribunal shall, subject to the rules made under this Act, maintain a record of the proceedings before it including the statements of parties and witnesses and relevant documents.

(3) The Tribunal shall, after hearing the dispute, pronounce its award in open court either at once or on some future date to which the case is adjourned for that purpose.

(4) The award shall be in writing and signed by the members of the Tribunal.

* * * * *

(5) In the event of any difference of opinion among the members of the Tribunal, the opinion of the majority shall prevail, but where there is no such majority, the opinion of the Chairman shall prevail.

(6) The award shall come into operation with effect from such date as may be specified therein, and where no such date is so specified, it shall come into operation on the date on which the award becomes executable under section 66.

65. *Publication of award.*—The award of a Tribunal shall be published within fifteen days of its pronouncement in such manner as may be prescribed.

* * * * *

66. *Award when executable.*—The award shall be executable on the expiry of thirty days from the date of its pronouncement:

Provided that where the appropriate Government is a party to the dispute and is of opinion that it would be inexpedient on public grounds to give effect to the whole or any part of the award, it may, by notification in the Official Gazette, within the said period of thirty days, declare the award or any part thereof not to be so executable, and shall, on the first available opportunity, lay the award, together with a statement of its reasons for making a declaration as aforesaid, before the Legislature of the State or, where the appropriate Government is the Central Government, before Parliament, and shall, as soon as may be, cause to be moved therein a resolution for the consideration of the award; and the Legislature of the State or, as the case may be, Parliament may, by a resolution, confirm, modify or reject the award.

* * * * *

*Appellate Proceedings before Tribunals*

67. *Presentation of appeal.*—(1) Subject to the provisions of this section any person aggrieved by an order of a Labour Court may, within thirty days from the date of such order, prefer an appeal to the Tribunal authorised to hear appeals from such Court:

Provided that no such appeal shall lie unless the appeal involves any substantial question of law:

Provided further that such appeal against an order of the Labour Court under Chapter V may lie on any question of fact or law:

Provided also that the Tribunal may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) No appeal shall lie from any order of a Labour Court made with the consent of parties.

68. *Stay of the order of the Labour Court by the Tribunal.*—Where an appeal is preferred against an order of a Labour Court, the Tribunal may, after giving the parties an opportunity of being heard, stay, for reasons to be recorded, the execution of that order or any part thereof for such period and on such conditions as it thinks fit:

Provided that no such order for stay of the execution shall be made unless the Tribunal is satisfied—

(*a*) that its decision shall be infructuous or that irreparable loss may result to the party applying for stay of the execution, unless the order for stay is made; or

(*b*) that the execution of the order of the Labour Court may have serious repercussions on the industry concerned or other industries or on the employees employed in such industry or industries.

69. *Determination of appeal.*—(*1*) The Tribunal may, after giving the appellant an opportunity of being heard, dismiss the appeal if, in its judgment, there is no sufficient ground for proceeding with it and in such a case, the Tribunal shall briefly record its reasons for so doing.

(*2*) Where the appeal is not dismissed under sub-section (*1*), the Tribunal shall, after hearing the appeal, pronounce its decision either at once or on some future date to which the appeal is adjourned for that purpose.

(*3*) In the event of any difference of opinion among the members of the Tribunal, the opinion of the majority shall prevail, but where there is no such majority, the opinion of the Chairman shall prevail.

(*4*) The decision of the Tribunal shall be in writing and signed by the members of the Tribunal.

(*5*) The Tribunal may confirm, vary or reverse the order appealed from and may pass such orders as it may deem fit, and where the order is reversed or varied, the decision of the Tribunal shall state the reliefs to which the appellant is entitled.

(*6*) A copy of the decision of the Tribunal shall be sent to the Labour Court concerned.

*Proceedings before Tribunals in relation to Applications*

70. *Presentation of application.*—An application to a Tribunal authorised in this behalf may be made in the prescribed manner by—

(*i*) an employee for decision, whether or not the employer has contravened the provisions of section 100; * * * * *

* * * * * ;

(*ii*) an employee whose services have been terminated by the employer, for decision whether or not such termination is in accordance with section 88 or section 89;

(*iii*) an employer or employee, for decision of any question that may arise under section 108;

(*iv*) an employer or employee, for decision whether or not an employee, a trade union or a certified bargaining agent has failed to comply with the terms of any settlement or collective agreement or order of a Labour Court or award, as the case may be;

(*v*) any party to the dispute or the appropriate Government, for decision whether or not a strike or lock-out is illegal.

71. *Adjudication of applications.*—On receipt of an application under section 70, the Tribunal shall adjudicate upon the application as if it were a dispute which has been referred to the Tribunal for adjudication by the appropriate Government under section 47 and the provisions of this Act shall apply accordingly.

## CHAPTER IX

### APPELLATE TRIBUNALS.

72. *Jurisdiction of the Appellate Tribunal.*—(*1*) Subject to the provisions of this section, the Appellate Tribunal shall have jurisdiction to hear appeals from every award if—

(*a*) the appeal involves any substantial question of law, or

(*b*) the award is in respect of any of the following matters, namely :—

(*i*) wages;

(*ii*) bonus or any payment due under any scheme of profit-sharing payable periodically and not forming part of the remuneration payable under the terms of employment;

(*iii*) any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the employees under any law for the time being in force;

(*iv*) any sum paid or payable to, or on behalf of, an employee to defray special expenses entailed on him by the nature of his employment;

(*v*) gratuity payable to an employee on the termination of his service;

(*vi*) classification by grades;

(*vii*) any decision on an application under section 70;

(*viii*) retrenchment resulting from any scheme of rationalisation, standardisation or improvement of plant or technique;

(*ix*) any other matter which may be prescribed.

(*2*) No appeal shall lie from an award made with the consent of parties.

(*3*) No appeal shall lie from any decision of a Tribunal passed in appeal under section 69:

Provided that the Appellate Tribunal may send for the records of any case and may, if it so thinks fit, after hearing the parties and the appropriate Government, pass such orders as it deems proper.

73. *Seat of the Appellate Tribunal.*—The Appellate Tribunal shall have its principal seat at such place as the Central Government may, by notification in the Official Gazette, appoint.

74. *Constitution of Benches of the Appellate Tribunal.*—(*1*) The Chairman may constitute as many Benches as may be deemed necessary and the powers and functions of the Appellate Tribunal may be exercised and discharged by the Benches so constituted.

(*2*) A Bench shall consist of not less than two members of the Appellate Tribunal, of whom one may be appointed the President of the Bench:

Provided that where any appeal involves any labour dispute affecting any banking or insurance company, the Bench shall include a person having special knowledge of, and experience in, banking or insurance, as the case may be:

Provided further that for hearing an application for stay of award under section 77, the Bench may consist of one member only.

(*3*) A Bench shall sit at such place or places as may be specified by the Chairman by notification in the Official Gazette:

Provided that the Bench may, if it is satisfied that it will tend to the general convenience of the parties or witnesses in any particular case, sit at any other place.

(*4*) A Bench may act notwithstanding the absence of any member or any vacancy therein.

(*5*) The Chairman may, from time to time, allot any case or any specified class of cases to any Bench and may also, from time to time, transfer any case or any specified class of cases from one Bench to another.

75. *Presentation of appeal.*—Any person aggrieved by an award may, within thirty days from the date of such award, prefer an appeal to the Appellate Tribunal:

Provided that the Appellate Tribunal may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

76. *Form of appeal.*—An appeal to the Appellate Tribunal shall be presented in the form of a memorandum setting forth, concisely and under distinct heads, the grounds of objection to the award appealed from.

77. *Stay of award by the Appellate Tribunal.*—Where an appeal is preferred, the Appellate Tribunal may, after giving the parties an opportunity of being heard, stay, for reasons to be recorded, the execution of the award or any part thereof for such period and on such conditions as it thinks fit:

Provided that no such order for stay of the execution shall be made unless the Appellate Tribunal is satisfied—

(*a*) that its decision shall be infructuous or that irreparable loss may result to the party applying for stay of the execution, unless the order for stay is made; or

(*b*) that the execution of the award may have serious repercussions on the industry concerned or other industries or on the employees employed in such industry or industries.

73. *Proceedings before the Appellate Tribunal.*—* * * * (*1*) The Appellate Tribunal may, after giving the appellant an opportunity of being heard, dismiss the appeal if, in its judgment, there is no sufficient ground for proceeding with it and in such a case, the Appellate Tribunal shall briefly record its reasons for so doing.

(*2*) The Appellate Tribunal shall, after hearing the appeal, pronounce its decision either at once or at some future date to which the appeal is adjourned for that purpose.

(*3*) The decision shall be in writing and signed by the members of the Appellate Tribunal hearing the appeal.

(*4*) The Appellate Tribunal may confirm, vary or reverse the award appealed from, and may pass such orders as it may deem fit, and where the award is reversed or varied the decision of the Appellate Tribunal shall state the reliefs to which the appellant is entitled.

(*5*) In the event of any difference of opinion among the members of a Bench, the opinion of the majority shall prevail, but where there is no such majority, the President of the Bench shall refer to the Chairman of the Appellate Tribunal either the whole appeal or the particular point or points on which there has been difference of opinion among the members of the Bench and on such reference, the Chairman shall either hear the matter himself or transfer it to any other member and the decision thereon of the Chairman or the other member, as the case may be, shall prevail.

(*6*) The Bench hearing an appeal may refer any question of law to the Chairman of the Appellate Tribunal with a recommendation to constitute a full Bench to decide the question.

(*7*) The Chairman of the Appellate Tribunal may, in such cases as he deems fit, and shall, on a reference received under sub-section (*6*), constitute a full Bench of three or five members of the Appellate Tribunal either to hear an appeal or to give an opinion on a point of law referred under sub-section (*6*), and the opinion of the full Bench on a point of law referred to it shall be binding on the Bench which made the reference.

(*8*) The Appellate shall send a copy of the decision to the Tribunal concerned and to the appropriate Government, as soon as practicable, within one week from the date of the decision.

79. *Decision when executable.*—The decision of the Appellate Tribunal shall be executable on the expiry of thirty days from the date of its pronouncement :

Provided that where the appropriate Government is a party to the dispute and is of opinion that it would be inexpedient on public grounds to give effect to the whole or any part of the decision, it may, by notification in the Official Gazette, within the said period of thirty days, declare the decision or any part thereof not to be so executable, and shall, on the first available opportunity, lay the decision, together with a statement of its reasons for making a declaration as aforesaid, before the Legislature of the State or, where the appropriate Government is the Central Government, before Parliament, and shall, as soon as may be, cause to be moved therein a resolution for the consideration of the decision ; and the Legislature of the State or, as the case may be, Parliament may, by a resolution, confirm, modify or reject the decision.

80. *Appellate Tribunal to exercise superintendence over Labour Courts and Tribunals.*—(*1*) The Appellate Tribunal shall exercise superintendence over all Labour Courts and Tribunals * and may—

(*a*) call for returns ;

(*b*) make and issue general rules and prescribe forms for regulating the practice and procedure of such Courts and Tribunals in matters not expressly provided for by or under this Act and, in particular, for securing the expeditious disposal of cases ;

(*c*) prescribe forms in which books, entries and accounts shall be kept by the officers of such Courts and Tribunals ;

(*d*) settle a table of fees payable for processes issued by a Labour Court or Tribunal.

(*2*) Nothing in sub-section (*1*) shall be construed as giving to the Appellate Tribunal any jurisdiction to question any order of a Labour Court or any award which is not otherwise subject to appeal or revision.

81. *Powers of the Appellate Tribunal in relation to contempts.*—(*1*) If any person—

(*a*) when ordered by a Labour Court or Tribunal or the Appellate Tribunal to produce or deliver up any document being legally bound intentionally omits to do so, or

(*b*) when required by a Labour Court, Tribunal or the Appellate Tribunal to bind himself by an oath or affirmation to state the truth, refuses to do so, or

(*c*) being legally bound to state the truth on any subject to a Labour Court, Tribunal or the Appellate Tribunal, refuses to answer any question put to him touching such subject by such Court, Tribunal or the Appellate Tribunal, or

(*d*) refuses to sign any statement made by him when required to do so by a Labour Court, Tribunal or the Appellate Tribunal, or

(*e*) intentionally offers any insult or causes any interruption to a Labour Court, Tribunal, or Appellate Tribunal at any stage of its judicial proceeding,

he shall be deemed to be guilty of contempt of such Court, Tribunal or the Appellate Tribunal, as the case may be.

(2) If any person commits any act or publishes any writing, which is calculated to improperly influence a Labour Court, Tribunal or the Appellate Tribunal or to bring such Court, Tribunal, or the Appellate Tribunal or the presiding officer of a Labour Court or a member of a Tribunal or the Appellate Tribunal into disrepute or contempt, or to lower its or his authority or to interfere with the lawful process of any such Court, Tribunal or the Appellate Tribunal, such person shall be deemed to be guilty of contempt of such court, Tribunal or the Appellate Tribunal, as the case may be.

(3) The Appellate Tribunal shall have and exercise the same jurisdiction, power and authority, in accordance with the same procedure and practice, in respect of contempts of itself and all the Labour Courts and Tribunals as the High Courts have and exercise in respect of themselves and courts subordinate to them under the Contempt of Courts Act, 1926 (XII of 1926).

## CHAPTER X

### Dismissal and Retrenchment

82. *Definition.*—For the purposes of this Chapter, "appropriate Government" means the Central Government in relation to such producers of iron and steel as may be notified in this behalf by the Central Government in the Official Gazette.

83. *Procedure for dismissal of an employee.*—No employee who has been in continuous employment under an employer for not less than six months shall be dismissed from service by that employer for any misconduct until such employee has been given, in the prescribed manner, reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

84. *Special provision for adjudication of disputes arising out of dismissal.*—Where a labour dispute arising out of the dismissal of an employee from service is referred to a Tribunal for adjudication, the Tribunal shall determine whether the employee has been dismissed for proper and sufficient cause and in accordance with the provisions of this Act, and where it comes to a decision that an employee has been wrongfully dismissed from service by an employer, the Tribunal may, notwithstanding anything contained in any other law, direct either reinstatement of that employee or, in lieu of such reinstatement, payment of such compensation to that employee as it may deem fit:

Provided that where such wrongful dismissal is found to be due to any legitimate trade union activity on the part of the employee, the Tribunal shall direct reinstatement of that employee:

Provided further that where an employee is wrongfully dismissed by any banking company, the Tribunal shall not direct reinstatement of that employee except with the consent of the employer.

85. *Application for reference of retrenchment cases to Tribunals.*—(1) An employer shall, where he proposes to introduce in his establishment any scheme of rationalisation, standardisation or improvement of plant or technique which is likely to lead to retrenchment of some employees employed in that establishment, and may, in any other case of retrenchment, apply, in the prescribed

manner, to the appropriate Government for a reference of the matter relating to retrenchment to a Tribunal.

(*2*) An application under sub-section (*1*) shall furnish full details of the scheme, if any, and shall, as far as practicable, specify—

(*a*) the number of employees likely to be retrenched;

(*b*) the classes of employees from which such retrenchment is to be made;

(*c*) the reasons for retrenchment of employees;

(*d*) the date on which such retrenchment is likely to be made; and

(*e*) any other particulars which may be prescribed.

(*3*) Where any retrenchment of employees is likely to be made on account of the introduction of any scheme referred to in sub-section (*1*), an employee may also apply to the appropriate Government for a reference of the matter relating to retrenchment to a Tribunal.

(*4*) No application for reference of any matter relating to retrenchment of employees, whether by an employer or an employee, shall be made except under this section.

86. *Reference of retrenchment cases to Tribunals.*—On receipt of an application under section 85, the appropriate Government may, within thirty days from the date of the receipt of such application, refer the matter relating to retrenchment, or announce its intention to refer that matter, to a Tribunal for adjudication.

87. *Adjudication of retrenchment cases by Tribunals.*—Where any matter relating to retrenchment of employees is referred to a Tribunal, the Tribunal shall take into consideration all the circumstances of the case and determine the number of employees to be retrenched and the class or classes of employees from which such retrenchment is to be made and make such award as it thinks fit as if the reference had been made under section 47 and the provisions of this Act shall apply accordingly:

Provided that nothing in this section shall be construed as giving to the Tribunal any jurisdiction to question the desirability or necessity of any scheme of rationalisation, standardisation or improvement of plant or technique.

88. *Conditions precedent to retrenchment of employees.*—No employee who has been in continuous employment for not less than one year under an employer shall be retrenched by that employer until—

(*a*) the employee has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the employee has been paid, in lieu of such notice, wages for the period of that notice;

(*b*) the employee has been paid, at the time of retrenchment, gratuity calculated at the rate of not less than fifteen days' average pay for every completed year of service or any part thereof in excess of six months; and

(*c*) in the case of any retrenchment where no application is made under section 85, a notice in the prescribed manner is served on the appropriate Government.

89. *Restrictions on retrenchment of employees resulting from rationalisation, etc.*—No retrenchment of any employee which results from the introduction of any scheme of rationalisation, standardisation or improvement of plant or technique shall be made unless—

(*a*) an application has been made in this behalf under section 85 and—

(*i*) where the matter has been referred to a Tribunal, except in accordance with the award of the Tribunal, or

(*ii*) where the matter has not been so referred, or the intention to refer the matter has not been announced under section 86, until the expiry of thirty days from the date on which the application was received by the appropriate Government; and

(*b*) the conditions specified in clauses (*a*) and (*b*) of section 88 have been complied with.

90. *Procedure for retrenchment and re-employment of employees.*—(*1*) Where any retrenchment of employees is to be made, the employer shall follow such procedure as may be prescribed and shall, as among the citizens of India and the employees of any class from which such retrenchment is to be made retrench the employee who was the last person to be employed in that class unless, for reasons to be stated in writing, the employer retrenches any other employee.

(*2*) Where, after the commencement of this Act, any retrenchment of employees is made and the employer proposes to employ some persons, he shall, under such circumstances and in such manner as may be prescribed, give an opportunity to the retrenched employees to offer themselves for re-employment and the retrenched employees who offer themselves for re-employment shall have preference to other persons.

91. *Effect of provisions of this Chapter on contract, etc.*—Where an employee acquires any right relating to any of the matters referred to in this Chapter under any award or any contract or agreement with the employer, the provisions of this Chapter shall not have effect in derogation of such right

Provided that, such employee shall elect either to have all the rights acquired under such award, contract or agreement or to have all the rights to which he would be entitled under this Chapter.

## CHAPTER XI

### CERTAIN GENERAL PROVISIONS RELATING TO AUTHORITIES UNDER THE ACT

92. *Certain powers of the authorities under the Act.*—(*1*) A Registering Officer, Conciliation Officer, Board, Standing Board, Commission, Labour Court Tribunal or the Appellate Tribunal shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Act V of 1908), when trying a suit, in respect of the following matters, namely:—

(*a*) summoning and enforcing the attendance of any person and examining him on oath;

(*b*) requiring the discovery and production of documents and material objects;

(*c*) issuing commissions for the examination of witnesses;

(*d*) any other matter which may be prescribed.

(*2*) The Appellate Tribunal or the Tribunal exercising appellate jurisdiction shall, subject to the provisions of this Act, have such further powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Act V of 1908), when hearing an appeal.

(*3*) A Commission, Labour Court, Tribunal or the Appellate Tribunal may, if it so thinks fit, appoint one or more persons as assessors to advise it in any proceeding before it.

(*4*) A Labour Court or Tribunal or the Appellate Tribunal shall take into account the possible financial consequences of a proposed order, award or decision on the establishment to which it relates and may, for that purpose, take such expert evidence or assistance as it may deem necessary.

(*5*) A Conciliation Officer, a Presiding Officer of a Labour Court or a member of a Board, Standing Board, Commission, Tribunal or the Appellate Tribunal may, for the purpose of inquiring into any labour dispute, enter after giving a reasonable notice, into the premises occupied by any establishment to which the dispute relates.

(*6*) A Registering Officer, Conciliation Officer, Board, Standing Board, Commission, Labour Court, Tribunal or the Appellate Tribunal shall be deemed to be a civil court for the purposes of sections 480 and 482 of the Criminal Procedure Code, 1898 (Act V of 1898); and any proceeding before such Board, Standing Board, Commission, Labour Court, Tribunal or the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (Act XLV of 1860).

93. *Procedure before the authorities under the Act.*—A Registering Officer, Conciliation Officer, Board, Standing Board, Commission, Labour Court, Tribunal or the Appellate Tribunal shall follow such procedure as may be prescribed, and subject thereto, the Appellate Tribunal may, by order, regulate the practice and procedure of the aforesaid authorities and where no provision or insufficient provision is made in respect of any matter by such rules and orders, the aforesaid authorities may follow such precedure as they think fit.

94. *Period of operation of settlements and collective agreements.*—(*1*) Where a collective agreement is concluded or a settlement is arrived at, such agreement or settlement shall come into operation with effect from such date as is agreed upon by the parties to the dispute, and if no date is so agreed upon, on the date on which the collective agreement or the memorandum of the settlement, as the case may be, is signed by the parties to the dispute.

(*2*) Such agreement or settlement shall remain in operation for such period, not exceeding three years, as is agreed upon by the parties, and if no such period is so agreed upon, for a period of one year, and shall continue to be binding on the parties after the expiry of the period aforesaid, until a

period of two months has elapsed from the date on which a notice in writing of an intention to terminate the settlement or agreement is given by one of the parties to the other party or parties to the settlement or agreement.

95. *Period of operation of orders and awards.*—(*1*) An order of a Labour Court shall, subject to the provisions of this section, remain in operation for such period, not exceeding three years and not less than one year, as may be specified in the order.

(*2*) An interim award shall remain in operation until the final award becomes executable. * * * * * *

(*3*) A final award shall, subject to the provisions of this section, remain in operation for such period, not exceeding three years, as may be specified in the award, and if no such period is so specified, for a period of one year.

(*4*) Notwithstanding the expiry of the period of operation of an order or award under sub-section (*1*) or sub-section (*3*), the order or award shall continue to be binding on the parties until a period of two months has elapsed from the date on which notice is given by any party bound by the order or award to the other party or parties intimating its intention to terminate the order or award.

(*5*) Nothing contained in sub-section (*1*) or sub-section (*3*) shall apply to any order of a Labour Court or award which by its nature, terms or other circumstances does not impose, after it has been given effect to, any continuing obligation on the parties bound by that order or award.

(*6*) Where the appropriate Government, whether of its own motion or on the application of any party bound by the order of a Labour Court or an award, considers that since it was made there has been a material change in the circumstances on which the order or award was based, it may refer the order or award or a part of it to a Labour Court or Tribunal for decision whether the period of operation should not, by reason of such change, be shortened, and the decision of the Labour Court or Tribunal on such reference shall, subject to the provision for appeal, if any, be final.

(*7*) In the computation of the period of operation of any order of a Labour Court under sub-section (*1*) or any award under * * sub-section (*3*), the period during which the implementation of the order or award is stayed by the Tribunal or, as the case may be, the Appellate Tribunal shall be excluded.

96. *Persons on whom collective agreements, settlements, orders and awards are binding.*—A settlement or an order of a Labour Court or an award or, subject to the provisions of section 42, a collective agreement, shall be binding on—

(*a*) all parties to the labour dispute;

(*b*) all other parties summoned to appear in the proceedings as parties to the dispute, unless the Board, Standing Board, Labour Court or Tribunal, as the case may be, records the opinion that they were summoned without proper cause;

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(*c*) where the party referred to in cluase (*a*) or clause (*b*) is an employer, his heirs, successors or assigns or the official assignee or liquidator in respect of the establishment to which the dispute relates;

(*d*) where the party referred to in clause (*a*) or clause (*b*) is composed of employees, all persons who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates on the date of dispute and all persons who subsequently become employed in that establishment or that part of the establishment.

97. *Right of appropriate Government to appear in any proceeding.*—The appropriate Government may, whether or not it is party to a dispute, appear in any proceeding before a Labour Court, Tribunal or the Appellate Tribunal and thereupon shall have the right to be heard as if it were a party to such proceeding.

98. *Representation of parties.*—(*1*) For the purpose of negotiations under Chapter IV or in any conciliation proceeding or in any proceeding in relation to standing orders or in any proceeding before a Labour Court, Tribunal or the Appellate Tribunal or for any other purposes of the Act, an employee may be represented in such negotiations or proceedings under this Act—

(*a*) by the employee himself; or

(*b*) where there is a certified bargaining agent, by such bargaining agent; or

(*c*) where there is no certified bargaining agent but there is a registered trade union of the employees—

(*i*) by an officer or another member of the registered trade union of which he is a member;

(*ii*) by an officer of a federation of trade unions to which the trade union referred to in clause (*i*) is affiliated;

* * * * * *

(*d*) where the employee is not a member of any trade union, by an officer of any trade union connected with, or by another employee of, the establishment in which the employee is employed and authorised in such manner as may be prescribed.

(*2*) For the purpose of negotiations under Chapter IV or collective bargaining under Chapter V or in any conciliation proceeding or in any proceeding in relation to standing orders or in any proceeding before a Labour Court, Tribunal or the Appellate Tribunal, an employer may be represented in such negotiations or collective bargaining or proceedings under this Act,—

(*a*) by the employer himself or any whole time officer of such employer or

(*b*) by an officer or another member of an association of employers of which he is a member;

(*c*) by an officer of a federation of associations of employers to which the association referred to in clause (*b*) is affiliated;

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(*d*) where the employer is not a member of any association of employers, by an officer of any association of employers connected with, or by any other employer engaged in, the class of establishments in which the employer is engaged and authorised in such manner as may be prescribed.

(*3*) No party to a labour dispute shall be entitled to be represented by a legal practitioner in any conciliation proceeding under this Act.

(*4*) A party to a proceeding before a Commission, Labour Court, Tribunal or the Appellate Tribunal shall not be represented by a legal practitioner save with the consent of the other parties to the proceeding and with the leave of the Commission, Labour Court, Tribunal or the Appellate Tribunal as the case may be :

Provided that nothing in this sub-section shall be deemed to debar an officer of any trade union or association of employers or any whole time officer of an employer entitled to represent a party under this section from representing that party merely because such officer is also a legal practitioner.

99. *Commencement and conclusion of proceedings.*—(*1*) A conciliation proceeding shall be deemed to have commenced on the date on which the Conciliation Officer, on receipt of a notice under section 27 or section 39, as the case may be, takes any steps to promote the settlement of the labour dispute or on the date on which the order referring the dispute to a Board is made or on the date on which the application to the Standing Board is presented, as the case may be.

(*2*) A conciliation proceeding shall be deemed to have concluded—

(*a*) where a settlement is arrived at, on the date on which the memorandum of the settlement is signed by the parties to the dispute ; or

(*b*) where no settlement is arrived at, on the date on which the report of the Conciliation Officer is submitted to the appropriate Government or, as the case may be, on the date on which the report of the Board or Standing Board is published under section 59 ; or

(*c*) where, before a settlement is arrived at, a reference is made to a Tribunal under section 47, on the date on which such reference is made.

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(*3*) Any proceeding before a Commission shall be deemed to have commenced on the date on which the order referring the matter to the Commission is made and shall be deemed to have concluded on the date on which the report of the Commission is published under section 59.

(*4*) Any proceeding before a Labour Court shall be deemed to have commenced on the date of the filing of an application under section 61 and shall be deemed to have concluded on the date on which the Labour Court pronounces its order.

(*5*) Any proceeding before a Tribunal—

(*a*) in relation to adjudication of disputes referred to it, shall be deemed to have commenced on the date on which the order referring the dispute under section 47 is made and shall be deemed to have concluded on the date on which the award becomes executable under section 66 ;

(*b*) in relation to an appeal, shall be deemed to have commenced on the date on which the appeal is presented under section 67 and shall be deemed to have concluded on the date on which the decision is pronounced;

(*c*) in relation to an application, shall be deemed to have commenced on the date on which the application under section 70 is presented and shall be deemed to have concluded on the date on which the award becomes executable under section 66.

(*6*) Any proceeding before the Appellate Tribunal shall be deemed to have commenced on the date on which the appeal is presented under section 75 and shall be deemed to have concluded on the date on which the decision of the Appellate Tribunal becomes executable under section 79.

100. *Conditions of service, etc., to remain unchanged under certain circumstances.*—(*1*) No employer shall, within thirty days from the date of the service of any notice of a labour dispute under the proviso to section 27 or the proviso to section 39, as the case may be, in respect of any matter specified in the Third Schedule, alter to the prejudice of the employees concerned in such dispute the conditions of service applicable to them immediately before the service of such notice.

(*2*) During the pendency of any conciliation proceeding or proceeding before a Labour Court, Tribunal or the Appellate Tribunal in respect of any labour dispute, no employer shall—

(*a*) alter, to the prejudice of the employees concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceeding, or

(*b*) discharge or punish, whether * * by dismissal or otherwise, any employee concerned in such dispute,

save with the express permission in writing of the Conciliation Officer or the Board or the Standing Board or the Labour Court or the Tribunal or the Appellate Tribunal, as the case may be:

Provided that no such permission shall be necessary for suspending an employee for misconduct not connected with the dispute, if the employee is paid full wages during the pendency of such proceeding:

Provided further that no such permission shall be necessary for retrenching an employee in accordance with the provisions of Chapter X.

101. *Special provision for decision as to whether conditions of service, etc., changed during pendency of proceedings.*—Where an employer contravenes the provisions of section 100 during the pendency of proceedings before a Labour Court, Tribunal or the Appellate Tribunal, any employee, aggrieved by such contravention, may make a complaint in writing, in the prescribed manner, to such Court, Tribunal or Appellate Tribunal and on receipt of such complaint, that Court Tribunal or Appellate Tribunal shall adjudicate upon the complaint as if it were a labour dispute referred to, or pending before, it in accordance with the provisions of this Act and shall make or pass an order, award or decision, as the case may be, and the provisions of this Act shall apply accordingly.

102. *Certain matters to be kept confidential.*—There shall not be included in any report or order or award or decision under this Act any information obtained by a Conciliation Officer, Board, Standing Board, Commission, Labour Court, Tribunal or the Appellate Tribunal in the course of any investigation or inquiry as to a trade union or as to any individual business (whether carried on by a person, firm or company) which is not available otherwise than through the evidence given before such Officer, Board, Standing Board, Commission, Court, Tribunal or the Appellate Tribunal, if the trade union, person, firm or company in question has made a request in writing that such information shall be treated as confidential, nor shall any of the aforesaid authorities or any person present at or concerned in the proceedings disclose any such information without the consent in writing of the secretary of the trade union or the person, firm or company in question, as the case may be :

Provided that nothing contained in this section shall apply to a disclosure of any information for the purpose of a prosecution under section 193 of the Indian Penal Code (Act XLV of 1860).

103. *Interpretation of orders, awards and decisions.*—(*1*) If the appropriate Government is of opinion that doubts have arisen as to the interpretation of any order of a Labour Court or any award or any decision of the Tribunal or the Appellate Tribunal, made or passed under this Act, it may refer the question to the Court, Tribunal or the Appellate Tribunal which made or passed the order, award or decision or if the appropriate Government so thinks fit, it may refer the question to the Appellate Tribunal.

(*2*) The Labour Court, Tribunal or the Appellate Tribunal to which a question is so referred shall give its decision thereon after giving an opportunity to the parties concerned of being heard and such decision shall be final and binding on the parties.

## CHAPTER XII

### Strikes and Lock-outs

104. *Conditions precedent to strikes and lock-outs.*—(*1*) No employee shall go on strike until—

(*a*) the employee or, where there is a certified bargaining agent on behalf of the employee, such bargaining agent has entered into negotiations or collective bargaining with the employer as provided for in Chapter IV and Chapter V, respectively, and the negotiation or collective bargaining, as the case may be, has failed, and

(*b*) where the employee is employed in a public utility service, a notice of strike, as hereinafter provided, has, on the failure of the negotiation or the collective bargaining, as the case may be, been given to the employer.

(*2*) No employer shall declare a lock-out to any of his employees until—

(*a*) the employer has entered into negotiations or collective bargaining with the employee or, where there is a certified bargaining agent on behalf

of the employee, with such bargaining agent, as provided for in Chapter IV and Chapter V, respectively, and the negotiation or the collective bargaining, as the case may be, has failed; and

(*b*) where the employer carries on a public utility service, a notice of lock-out, as hereinafter provided, has, on the failure of the negotiation or the collective bargaining, been given to the employees or the certified bargaining agent, as the case may be.

*Explanation.*—For the purposes of sub-sections (*1*) and (*2*), a negotiation or collective bargaining shall be deemed to have failed, if the negotiation or collective bargaining, as the case may be, is not commenced within the prescribed period or, where such negotiation or collective bargaining has commenced, if there is no settlement or collective agreement, within the period prescribed for the conclusion of negotiations or collective bargaining, as the case may be.

(*3*) Where a notice of strike or lock-out has been given under clause (*b*) of sub-section (*1*) or clause (*b*) of sub-section (*2*), no employee shall go no strike and no employer shall declare a lock-out—

(*a*) within fourteen days of giving notice, or

(*b*) before the expiry of the date of strike or lock-out specified in such notice, or

(*c*) after the expiry of six weeks from the date of giving such notice.

(*4*) A notice of strike referred to in sub-section (*1*) shall be given to the employer, the Conciliation Officer and the appropriate Government, in such manner as may be prescribed, by—

(*a*) where there is a certified bargaining agent on behalf of the employees; such bargaining agent, or

(*b*) where there is no such certified bargaining agent, such person or persons as may be prescribed.

(*5*) A notice of lock-out referred to in sub-section (*2*) shall be given by the employer in such manner as may be prescribed to the Conciliation Officer, the appropriate Government, and—

(*a*) where there is a certified bargaining agent on behalf of the employees, to such bargaining agent, or

(*b*) where there is no such certified bargaining agent, to such person or persons as may be prescribed.

105. *Restrictions of strikes and lock-outs.*—(*1*) No employee shall give any notice of strike or go on strike and no employer shall give any notice of lock-out or declare a lock-out in pursuance of any labour dispute—

(*a*) which is pending before a Conciliation Officer, Board or Standing Board, during the pendency of such concilition proceeding and during a period of fourteen days after the conclusion of such proceeding; or

(*b*) which is pending before a Tribunal, during the pendency of such proceeding or during a period of eight months from the date on which the proceeding before the Tribunal commenced, whichever is shorter; or

(*c*) which is pending before the Appellate Tribunal, during the pendency of such proceeding or during a period of eight months from the date on which the proceeding before the Labour Tribunal commenced, whichever is shorter; or

(*d*) in respect of which any settlement or collective agreement or award is in operation.

(*2*) Where Labour Courts have been constituted under section 10, no employee shall go on strike and no employer shall declare a lock-out in pursuance of any labour dispute relating to any matter which is not specified in the Second Schedule.

(*3*) Where a strike or lock-out in pursuance of a labour dispute has already commenced and is in existence at the time of the reference of the dispute to a Board or Tribunal, the continuance of such strike or lock-out shall not be deemed to be illegal if such strike or lock-out was not, at its commencement, illegal :

Provided that the appropriate Government may, by order, prohibit the continuance of any such strike or lock-out.

106. *Power to prohibit strikes and lock-outs in emergencies.*—(*1*) The appropriate Government may, if satisfied that it is necessary or expedient so to do for securing the public safety or the maintenance of public order or for maintaining supplies and services essential to the life of the community, by notification in the Official Gazette, prohibit strikes or lock-outs in any public utility service specified in the notification within such area and for such period, not exceeding six months, as may be so specified.

(*2*) The appropriate Government shall, on the first available opportunity, place the notification under sub-section (*1*), together with its reasons for issuing such notification, before the Legislative Assembly of the State or, where the appropriate Government is the Central Government, before Parliament.

107 *Illegal strikes and lock-outs.*—(*1*) A strike or lock-out shall be illegal, if—

(*a*) it is commenced, declared or continued in contravention of section 104 or section 105 or section 106; or

(*b*) it is continued in contravention of an order made under the proviso to sub-section (*3*) of section 105; or

(*c*) it is commenced before the expiry of fourteen days from the date on which the appropriate Government announced its intention to make a reference under the proviso to sub-section (*1*) of section 47; or

(*d*) it has any object other than, or in addition to, the settlement of the labour dispute which has arisen either in the establishment or establishments in which the employees going on strike are employed or the employers locking-out are engaged, or in any other establishment within the same class, and it has the object of inflicting severe and general hardship upon the community; or

(*e*) it is commenced or declared in an establishment within a particular class in sympathy with a strike or lock-out in any other establishment within a different class.

(*2*) A lock-out declared in consequence of an illegal strike or a strike declared in consequence of an illegal lock-out shall not be deemed to be illegal.

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108. *Consequences of illegal strikes and lock-outs.*—(*1*) Any employee who commences, continues, or otherwise acts in furtherance of, a strike which is illegal under this Act shall forfeit his claim to wages, leave, bonus, if any, the contribution payable by the employer to the provident fund, if any, and any other concession for the period of such a strike.

*Explanation.*—For the purposes of calculation of a claim to bonus under this sub-section, any part of a quarter of a year shall be taken to be a quarter of a year.

(*2*) Any employer who commences, continues, or otherwise acts in furtherance of, a lock-out which is illegal under this Act shall, for the period of such lock-out, pay to the employees wages at the rate of one and one-half times their average pay, bonus, if any, the contribution payable by the employer to the provident fund, if any, and grant to the employees leave or any other concession, as if the employees had been on duty during the period of such lock-out.

(*3*) Notwithstanding anything contained in sub-sections (*1*) and (*2*) and other provisions of this Act, where any illegal strike or lock-out, other than an illegal strike or lock-out under clause (*d*) or clause (*e*) of section 107, is called off within forty-eight hours of its commencement, an employee shall forfeit his claim to wages only for the period of such strike or, as the case may be, the employer shall be liable to pay to the employees their average pay and all other contributions or concessions as if the employees had been on duty during the period of such lock-out, and the employee or employer, as the case may be, shall not be liable to any other penalty under this Act:

Provided that the provisions of this sub-section shall not apply to any illegal strike or lock-out in any establishment, if it is declared or commenced within six months from the date of the declaration or commencement of another illegal strike or lock-out in the same establishment.

109. *Decision as to legality of strike to be final.*—Where a Tribunal authorised under section 70 decides whether or not a strike or lock-out is illegal under this Act, such decision shall, subject to the provision for appeal, be final and shall not be questioned in any other proceeding under this Act or in any proceeding under any other law for the time being in force.

110. *Allowance payable during strike period in certain cases.*—Where,, in pursuance of a labour dispute, an employee goes on strike which is not illegal under this Act, and such dispute is referred to a Tribunal for adjudication, that Tribunal may direct the payment of such allowance to that employee in lieu of wages for the period of strike as it thinks fit, not exceeding three-fourths of the average pay of the employee, and in determining the rate of allowance, the Tribunal shall have regard to the measure of success of the employee in respect of his demands for adjudication by the Tribunal.

## CHAPTER XIII

### Enforcement of Settlements, Collective Agreements, Orders and Awards

111. *Recovery of money due from an employer under settlements, etc.*—(*1*) Any money due from an employer under any settlement or collective agreement or order of a Labour Court or award may be recovered as arrears of land

revenue or as public demand by the appropriate Government on the application made to it by the persons entitled to the money under that settlement or agreement or order or award, as the case may be.

(2) Where an employee is entitled to receive from the employer any benefit under any settlement, collective agreement, order of a Labour Court or award which has not been received by him and, which is capable of being computed in terms of money, the amount at which such benefit should be computed may be determined—

(a) where the benefit is to be received under an order of a Labour Court or award of a Tribunal, by that Court or Tribunal; and

(b) in any other case, by such authority as may be prescribed;

and the amount so determined may be recovered in the manner provided for in sub-section (1).

(3) Where any amount recoverable under sub-section (1) is not an ascertained sum of money, that amount may be calculated and ascertained by such authority and in such manner as may be prescribed.

112. *Liability of contractors or agents to employers.*—Where an employer engaging the services of any contractor or agent is liable to pay to an employee under section 111 any amount which the employee could have recovered from the contractor or agent, the employer shall be entitled to be indemnified by the contractor or agent and all questions as to the right to, and the amount of, any such indemnity shall be settled by such authority as may be prescribed.

113. *Liability of employee on failure to comply with terms of settlement, etc.*—Where an employee refuses or fails to comply with any term of any settlement or collective agreement or orders of a Labour Court or award, such employee shall be liable to forfeit his claim to bonus, if any, and the contribution payable by the employer to the provident fund, if any, for the period of such non-compliance and shall also be liable to be dismissed from service.

*Explanation.*—For the purposes of calculation of claim to bonus under this section, any part of a quarter of a year shall be taken to be a quarter of a year.

114. *Liability of trade unions or certified bargaining agents on failure to comply with terms of settlement, etc.*—(1) Where a trade union or certified bargaining agent refuses or fails to comply with any term of an order of a Labour Court or award, or where a trade union refuses or fails to comply with any term of any settlement, or where a certified bargaining agent refuses or fails to comply with any term of any collective agreement,—

(a) such trade union shall forfeit its right to be recognised by the employer and shall be liable to have its registration cancelled; or

(b) such certified bargaining agent shall be liable to have its certification revoked.

*Explanation.*—For the purposes of this sub-section, a trade union shall not be deemed to have refused or failed to comply with any term of any settlement, collective agreement, order of a Labour Court or award, if the trade union removes from its membership, within two months from the date on which such settlement, agreement, order or award becomes enforceable, all the members who refuse or fail to comply with such a term.

(2) Where the recognition of a trade union is withdrawn or the registration of a trade union is cancelled or the certification of a bargaining agent is revoked under sub-section (1) for having refused or failed to comply with the terms of any settlement, collective agreement, award or order of a Labour Court, as the case may be, and the competent authority is satisfied that the trade union or bargaining agent has complied with all the terms which it refused or failed to fulfil, the competent authority shall, by order, set aside such withdrawal of recognition, cancellation of registration or the revocation of certification, as the case may be, and the trade union or the bargaining agent shall continue to have all the rights of a registered trade union or a recognised trade union or a certified bargaining agent, as the case may be.

*Explanation.*—For the purposes of this section, "competent authority" means any person, officer, court or other authority who is competent to withdraw the recognition of a trade union, cancel the registration of a trade union or revoke the certification of a bargaining agent.

115. *Special provisions for exercising control by the appropriate Government with regard to certain undertakings.*—(1) The appropriate Government may, if satisfied that it is necessary or expedient so to do for securing the public safety or the maintenance of public order or for maintaining supplies and services essential to the life of the community, by notification in the Official Gazette, declare any factory, as defined in the Factories Act, 1948 (LXIII of 1948), or any establishment or class of establishments as may be specified in the notification to be a controlled undertaking (hereinafter referred to as the controlled undertaking).

(2) Where the employer of a controlled undertaking refuses or fails to comply with any term of any settlement or collective agreement or order of a Labour Court or award, the appropriate Government may, by order, require such employer to comply, within two months from the date of the receipt of the order, with the terms of such settlement or agreement or order or award, as the case may be.

(3) Where the appropriate Government is satisfied that the employer has failed to comply with the terms as required by sub-section (2) within the prescribed period, the appropriate Government may appoint a committee to examine and report as to whether the Government should give direction to, or exercise control over, the undertaking in question.

(4) A committee under sub-section (3) shall consist of a chairman, who shall be an independent person, and two other members, one representing the employer of the controlled undertaking and the other representing the employees thereof, and the committee shall, after making such inquiry as it deems fit with the assistance of experts, if necessary, submit its report to the appropriate Government within one month from the date of the constitution of the Committee or such further time as may be allowed by the appropriate Government.

(5) The appropriate Government may, on consideration of the report of the committee, if any, submitted under sub-section (4) and, if it is satisfied that it is necessary so to do in the public interest, by order appoint a controller authorising him to give directions to, or to exercise functions of control over, the controlled undertaking or part thereof subject to such conditions, if any, as may be provided by the order. * * * * *

(6) The controller may give such directions to, or exercise such functions in respect of, the controlled undertaking as may be deemed necessary so, however, that the directions issued or the exercise of functions shall not be inconsistent with the provisions of any Act or other instrument determining the functions of the person or authority carrying on the controlled undertaking except in so far as may be specifically provided by the order under sub-section (5), and any person having any functions of management in relation to such undertaking or part thereof shall comply with the directions or orders given by the controller.

(7) The controlled undertaking shall be under the control of the appropriate Government for such period as the appropriate Governments may, by order, determine, and the appropriate Government may from time to time, extend the period of operation of control so, however, that such period does not, in any case, exceed three years in the aggregate.

116. *Periodical review of controlled undertakings and revision of settlement, etc.*—Where an undertaking is under the control of the appropriate Government under section 115, the affairs of such undertaking and in particular the financial aspects thereof shall be examined once in every six months in such manner as may be prescribed by the appropriate Government and if it be found that the undertaking continues to work at a loss over any two consecutive half-yearly periods, the appropriate Government shall refer the settlement, collective agreement, order of a Labour Court or award, as the case may be, with a statement of the financial position of the undertaking to the Appellate Tribunal for decision whether such settlement, agreement, order or award should be revised in view of the financial position of the undertaking and the decision of the Appellate Tribunal, on such reference, shall be final.

117. *Release of undertaking from the control of the appropriate Government.*—(1) Where any settlement, collective agreement, order of a Labour Court or award in respect of a controlled undertaking is modified by the Appellate Tribunal under section 116, that undertaking may, within fifteen days of the date of the decision of the Appellate Tribunal, be released from the control of the appropriate Government and restored to the employer if such employer gives a guarantee, in the prescribed manner, to the satisfaction of the appropriate Government to comply with the terms of the settlement, agreement, order or award, as the case may be, as modified by the decision of the Appellate Tribunal.

(2) Notwithstanding anything contained in sub-section (1), the appropriate Government may, at any time, on an application made to it by the employer of a controlled undertaking, release the undertaking from its control and restore the same to that employer on such terms and conditions as it thinks fit :

Provided that such employer agrees to comply with the terms of settlement or collective agreement or order of a Labour Court or award, as the case may be :

Provided further that the appropriate Government may, if satisfied that the employer has not complied with such terms and conditions, by order, resume control over that undertaking and appoint a controller authorising him to exercise functions of control over the undertaking or part thereof subject to such conditions as may be specified by the order.

118. *Continuance of control and closing down an undertaking in certain cases.*—Where any settlement, collective agreement, order of a Labour Court or award in respect of a controlled undertaking is not modified by the Appellate Tribunal under section 116, or where any employer refuses or is unwilling to give a guarantee under section 117, or where any employer having given the guarantee refuses or fails to comply with it, the appropriate Government may—

(*a*) either continue to exercise functions of control over that undertaking; or

(*b*) close down that undertaking.

119. *Profit and loss of the undertaking during the period of control.*—Any profit made or loss incurred in any controlled undertaking during the period of control of the appropriate Government under this Chapter shall be credited or debited to the assets of that undertaking and the appropriate Government shall not be held liable for any loss incurred in the undertaking during the period of such control.

120. *Protection of appropriate Government and controller.*— No suit for damages shall lie against the appropriate Government or the Controller appointed under this Chapter for any action which is in good faith taken in relation to any controlled undertaking by such Government or controller during the period of control and no injunction in respect of any action taken or to be taken by such Government or controller in relation to such undertaking shall be granted by any civil court or other authority.

## CHAPTER XIV

### PENALTIES

121. *Penalty for illegal strikes and lock-outs.*—(*1*) Any employee who commences, continues, or otherwise acts in furtherance of, a strike which is illegal under this Act shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

(*2*) Any employer who commences, continues, or otherwise acts in furtherance of, a lock-out which is illegal under this Act shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

122. *Penalty for instigation, etc.*—Any person who instigates or incites others to take part in, or otherwise acts in furtherance of, a strike or lock-out which is illegal under this Act shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

123. *Penalty for giving financial aid to illegal strikes and lock-outs.*—Any person who knowingly expends or applies any money in furtherance or support of any strike or lock-out which is illegal under this Act shall be punishable with

imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

124. *Penalty for breach of settlement, etc.*—Any person who commits a breach of any term of any settlement or collective agreement or order of a Labour Court or award which is binding on him under this Act, shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both, and the court trying the offence, if it fines the offender, may direct that the whole or any part of the fine realised from him shall be paid, by way of compensation, to any person who, in its opinion, has been injured by such breach.

125. *Penalty for disclosing confidential information.*—Any person who wilfully discloses any such information as is referred to in section 102 in contravention of the provisions of that section shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

126. *Penalty for altering conditions of service, etc.*—Any employer who contravenes the provisions of section 100 shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

127. *Penalty for contravention of standing orders.*—(*1*) Any employer who fails to submit draft standing orders as required by section 16 or who modifies his standing orders otherwise than in accordance with the provisions of section 24 shall be punishable with fine which may extend to five hundred rupees.

(*2*) Any employer who does any act in contravention of the standing orders registered under Chapter III shall be punishable with fine which may extend to one thousand rupees.

128. *Penalty for retrenchment of employees in certain cases.*—Any employer who retrenches an employee in contravention of the provisions of section 88 or section 89 shall be punishable with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both, and the court trying the offence, if it fines the offender, may direct that the whole or any part of the fine realised from him shall be paid, by way of compensation, to any person who, in its opinion, has been injured by such contravention.

129. *Penalty for other offences.*—Whoever contravenes any of the provisions of this Act or any rule made thereunder shall, if no other penalty is elsewhere provided by or under this Act for such contravention, be punishable with fine which may extend to one hundred rupees.

130. *Offences by corporations.*—(*1*) Where a person committing an offence under this Act is a company or other body corporate, every person who, during the relevant period, was in charge of, and was responsible to, the company or other body corporate for the conduct of the business of the establishment in relation to which the offence was committed, as well as the company or other

body corporate, shall be deemed to be guilty of such offence and shall be liable to be proceeded against accordingly :

Provided that nothing contained in this sub-section shall render any person so in charge or responsible liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where any offence under this Act has been committed by a company or other body corporate and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company or other body corporate, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

## CHAPTER XV

### MISCELLANEOUS

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131. *Certain persons to be public servants.*—Every registering officer, Conciliation Officer, presiding officer of a Labour Court and every member of a Board, Standing Board, Commission, Tribunal or the Appellate Tribunal and every controller appointed under Chapter XIII shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

132. *Cognizance of offences by courts.*—(*1*) No court shall take cognizance of any offence punishable under this Act or of the abetment of any such offence, save on complaint made by any person aggrieved or by or under the authority of the appropriate Government or by an officer empowered in this behalf by such Government, by a general or special order.

(*2*) No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence punishable under this Act.

133. *Offence to be cognizable.*—Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), an offence punishable under section 122 shall be cognizable.

134. *Protection of persons.*—(*1*) No person refusing to take part or to continue to take part in any strike or lock-out which is illegal under this Act shall, by reason of such refusal or by reason of any action taken by him under this section, be subject to expulsion from any trade union or society, or to any fine or penalty or to deprivation of any right or benefit to which he or his legal representatives would otherwise be entitled, or be liable to be placed

in any respect, either directly or indirectly, under any disability or at any disadvantage as compared with other members of the union or society, anything to the contrary in the rules of a trade union or society notwithstanding.

(2) Nothing in the rules of a trade union or society requiring the settlement of disputes in any manner shall apply to any proceeding for enforcing any right of exemption secured by this section, and in any such proceeding the civil court may, in lieu of ordering a person who has been expelled from membership of a trade union or society to be restored to membership, order that he be paid out of the funds of the trade union or society such sum by way of compensation or damages as that court thinks just.

135. *Protection of action taken under the Act.*—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or of any rules made thereunder.

136. *Delegation of power.*—The appropriate Government may, by general or special order, direct that the powers exercisable by it by or under this Act shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercisable also by an officer subordinate to that Government.

137. *Power to give directions.*—The Central Government may give directions to the State Governments as to carrying into execution the provisions of this Act.

138. *Power to make rules.*—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) the manner in which representatives of employers and employees may be chosen in Works Committee, Board or Standing Board and the time within which a party to a dispute may make its recommendation for the representation of that party to a Board;

(*b*) quorum for the functioning of Boards, Standing Boards, Commissions and Tribunals;

(*c*) qualifications for appointment as a member of a Tribunal or the Appellate Tribunal;

(*d*) the particulars to be stated in standing orders;

(*e*) conditions under which a group of employers may submit joint standing orders;

(*f*) model standing orders;

(*g*) form of notice, manner of service of notice or summons by the authorities under this Act; manner of sending documents required to be sent under this Act to employers and employees; and giving of notice required to be given under this Act by one party to another;

(*h*) the manner in which negotiations and collective bargaining may be held and the manner of registration of settlements and collective agreements;

(*i*) the manner of holding conciliation proceedings;

(*j*) the manner in which application may be made by employers and employees to the appropriate Government for reference of any dispute or matter to a Board, Tribunal or Commission;

(*k*) the form and manner in which application may be made to Standing Boards, Labour Courts, Tribunals and the Appellate Tribunal; the jurisdiction of Labour Courts and Tribunals to hear applications;

(*l*) the form and manner in which appeals may be presented to Tribunals and the Appellate Tribunal; the jurisdiction of Tribunals to hear appeals from orders of Labour Courts;

(*m*) the manner in which the report of a Commission, Board or Tribunal shall be published;

(*n*) the procedure to be followed by authorities under this Act in respect of proceedings before them;

(*o*) the forms to be used and the registers to be maintained under this Act;

(*p*) the manner in which employers and employees may authorise other persons to represent them in negotiations or collective bargaining and in any proceeding under this Act;

(*q*) the form in which notice of strike or lock-out may be given and the manner of service of such notice;

(*r*) the authority to calculate and determine the amount of money recoverable under section 111 and section 112;

(*s*) the powers, duties and functions of controllers appointed under Chapter XIII;

(*t*) the manner in which guarantee may be given by employers to the appropriate Government for release of a controlled undertaking;

(*u*) the levy and collection of court-fees in respect of an application or appeal made to any of the authorities under this Act, the levy and collection of process fees in respect of service of summons and notices and the levy and collection of fees in respect of supply of certified or other copy of any notice, settlement, collective agreement, order of a Labour Court, award of a Tribunal or decision of the Tribunal or Appellate Tribunal;

(*v*) the manner in which disciplinary action may be taken by an employer against his employees;

(*w*) meaning of continuous employment for the purposes of sections 83 and 88.

(*x*) the manner in which applications for retrenchment may be made, and the particulars which such applications may contain;

(*y*) the procedure to be followed in effecting retrenchment of employees and in re-employing such retrenched employees;

(*z*) any other matter which has to be, or may be, prescribed under this Act.

139. *Power to make regulations.*—(*1*) A State Government may, by notification in the Official Gazette, make regulations, not inconsistent with this Act and the rules made thereunder, to carry out the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the matters specified in sub-section (*2*) of section 138 other than any matter relating to the Appellate Tribunal.

(*3*) If any regulation made under this section is repugnant to any rule made under section 138, the rule made, whether before or after the making of the regulation, shall prevail, and the regulation shall, to the extent of the repugnancy, be inoperative.

140. *Repeals and savings.*—(*1*) On the coming into force of the provisions of this Act [other than those of section (*1*)] in any State or in respect of the specified class or classes of establishments in any State, the following Acts, namely :—

(*a*) The Industrial Employment (Standing Orders) Act, 1946 (XX of 1946),

(*b*) The Industrial Disputes Act, 1947 (XIV of 1947),

(*c*) The Industrial Disputes (Banking and Insurance Companies) Act, 1949 (LIV of 1949),

(*d*) The Industrial Disputes (Appellate Tribunal) Act, 1950 (XLVIII of 1950),

(*e*) The Bombay Industrial Relations Act, 1947 (Bom. Act XI of 1947),

(*f*) The United Provinces Industrial Disputes Act, 1947 (U. P. Act XXVIII of 1947),

(*g*) The Central Provinces and Berar Industrial Disputes Settlement Act, 1947 (C.P. and Berar Act XXIII of 1947), and

(*h*) The Industrial Disputes (Madras Amendment) Act, 1949 (Mad. Act XII of 1949),

shall stand repealed in relation to that State or, as the case may be, in respect of the specified class or classes of establishments within that State.

(*2*) On the coming into force of the provisions of this Act [other than those of section (*1*)] in any of the Part B States or in respect of the specified class or classes of establishments in any of the Part B States, if immediately before such commencement there is in force in that State any law relating to the adjudication of labour disputes other than those referred to in sub-section (*1*), that law shall stand repealed in relation to that State or, as the case may be, in respect of the specified class or classes of establishments within that State.

(*3*) Notwithstanding any such repeal, any proceeding commenced or penalty incurred under any of the Acts mentioned in sub-section (*1*) or any law referred to in sub-section (*2*) shall be continued or enforced as if this Act had not been passed, and subject thereto, anything done or any action taken, including any appointment made, order, notification, rules or bye-laws made or issued under any of the aforesaid Acts or laws and in force immediately before the commencement of this Act shall be deemed to have been done, taken, made or issued under the corresponding provisions of this Act as if

this Act were in force on the day on which such thing was done or action was taken or appointment, order, notification, rules or bye-laws were made or issued.

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## THE FIRST SCHEDULE

[*See* section 2 (25)]

(1) Classification of employees, *e.g.*, whether permanent, temporary, apprentices, probationers, or *badlis*.

(2) Manner of intimating to employees periods and hours of work, holidays, pay-days and wage rates.

(3) Shift working.

(4) Attendance and late coming.

(5) Conditions of, procedure in applying for, and the authority which may grant, leave and holidays.

(6) Requirement to enter premises by certain gates, and liability to search.

(7) Closing and reopening of sections of the establishment, and temporary stoppages of work and the rights and liabilities of the employer and employees arising therefrom.

(8) Termination of employment, and the notice thereof to be given by employer and employees.

(9) Suspension or dismissal for misconduct, and acts or omissions which constitute misconduct; and, in particular, subject to rules made under this Act, procedure for taking disciplinary action against employees.

(10) Means of redress for employees against unfair treatment or wrongful exactions by the employer or his agents or servants.

(11) Any other matter which may be prescribed.

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## THE SECOND SCHEDULE

(*See* sections 10 and 47)

1. Wages.
2. Bonus or payment under any scheme of profit-sharing.
3. Contribution paid or payable by the employer to any provident fund or pension fund or for the benefit of the employees under any law for the time being in force.
4. Compensatory and other allowances.
5. Hours of work.
6. Leave with pay.

7. Working in * * shifts.

8. Classification by grades.

9. Rationalisation of labour and plant.

10. Whether an employee has been wrongfully dismissed; reinstatement of, or damages to, a person wrongfully dismissed.

11. Retrenchment of employees.

12. Whether procedure for retrenchment has been followed; gratuity payable to an employee on retrenchment.

13. Whether an employer or employee or a trade union or a certified bargaining agent has failed to comply with terms of any settlement or collective agreement or order of a Labour Court or award, as the case may be.

14. Whether a strike or lock-out is illegal.

15. Any other matter which may be prescribed.

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## THE THIRD SCHEDULE

(*See* the provisos to sections 27 and 39.)

1. Wages, including the period and mode of payment.

2. Contribution paid or payable by the employer to any provident fund or pension fund or for the benefit of the employees under any law for the time being in force.

3. Compensatory and other allowances.

4. Hours of work.

5. Leave with pay.

6. Starting, alteration or discontinuance of shift working other than in accordance with standing orders.

7. Classification by grades.

8. Withdrawal of any customary concession or privilege, or change in usage.

9. Introduction of new rules of discipline, or alteration of existing rules except in so far as they are provided in standing orders.

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M. N. KAUL,
*Secretary.*

# PARLIAMENT OF INDIA

The following Report of the Select Committee on the Bill to provide for the registration and recognition of trade unions and in certain respects to define the law relating to registered and recognised trade unions and to certain unfair practices by employers and recognised trade unions, was presented to Parliament on the 1st December, 1950 :—

## THE TRADE UNIONS BILL, 1950

PARLIAMENT OF INDIA

REPORT OF THE SELECT COMMITTEE OF THE TRADE UNIONS BILL, 1950

We the undersigned members of the Select Committee to which the Bill to provide for the registration and recognition of trade unions and in certain respects to define the law relating to registered and recognised trade unions and to certain unfair practices by employers and recognised trade unions was referred, have considered the Bill, and have now the honour to submit this our report with the Bill as amended by us annexed thereto.

Upon the changes proposed by us, which are not formal or consequential, we note as follows :—

*Clause 2*

*Clause 2 (1).*—We think that the Central Government should be the appropriate Government in relation to any establishment in which more than 50 per cent of the total capital is provided by the Central Government. This provision has been made in part (x).

*Clause 2 (2).*—The concept of civil servant is a little complicated, and the definition has been redrafted to make the meaning more clear. We, however, think that when the appropriate Government by notification amends the definition of "civil servant", such notification should be placed before Parliament or the Legislature of the State, as the case may be. A proviso to this effect has been added to this clause.

*Clause 2 (3).*—We consider that domestic servants should not be excluded from the category of employees and the definition of "employee" has been modified accordingly.

*Clause 2 (4).*—Under the existing definition, a contractor would be the employer in relation to persons employed by him. This may sometimes cause hardship to the employees. We have accordingly provided that, in certain circumstances in relation to contractor's labour, both the contractor and the ultimate employer engaging the contractor should have the obligations of the employer. The definition has accordingly been modified, and other changes are formal changes.

*Clause 2 (9).*—We are of opinion that the dismissal of an employee should not be taken out of the purview of a labour dispute. We, however, feel that a dispute should not arise until the employee has actually been dismissed. The proviso to this clause has accordingly been omitted and the definition has been redrafted.

*Clause 2 (10)*.—We have inserted this new clause to define the expression 'lock-out".

*Clause 2 (17)* [*original clause 2 (16)*].—The definition of "trike" has been nodified so as to include within its scope any strike which is declared to help he employees of another establishment to put pressure on their employer.

*Clause 4*.—We consider that when application for registration of a trade inion is made, at least five of the persons making the application should be ordinary members. We have inserted two provisos to clause (*e*) to provide hat a person shall not be excluded from the membership of a trade union nerely on grounds of sex, religion or caste. We have also provided that the restrictions applicable to the admission of ordinary members in a trade union should not apply to a federation of trade unions.

*Clause 10*.—We have substituted the word "suspended" for the word "withdrawn", and have added a proviso to make the meaning clear.

*Clause 11*.—We are of opinion that it is not necessary to provide for a second appeal to the High Court, and hence sub-clause (4) has been omitted.

*Clause 16*.—We have made some drafting changes in this clause.

*Clause 20*.—We have omitted a few words as being unnecessary.

*Clause 24*.—Under the existing clause, the number of outsiders who may be officers of a trade union is restricted to four or one-fourth of the total number of members of the executive, whichever is less. We, however, feel that in the case of a trade union which is connected with a large number of undertakings and which has a large membership spread over a wide area, it may be necessary to relax the restriction in respect of outsiders. We have, therefore, made a provision empowering the Government to prescribe by regulations the admission of outsiders as officers of a trade union. We have also redrafted this clause.

*Clause 31*.—We are of opinion that where Labour Courts are constituted under the Labour Relations Act, such Courts should be vested with all the powers of Labour Courts under this Act. We have amended sub-clause (1) accordingly. We have also amended sub-clause (2) in order that the qualifications of presiding officers of Labour Courts under both the Acts may be the same.

*Clauses 32 and 33*.—We have rearranged these two clauses, and sub-clauses (2), (3) and (4) of clause 33 have been incorporated as sub-clauses (5), (6) and (7) of clause 32.

In sub-clause (1) of clause 33, we have slightly amended part (*c*) in order to make it clear that a trade union may be representative of all the employees or a particular class of employees in an establishment.

We have omitted part (*d*) as this provision has already been inserted in clause 6.

We think that it should be clearly laid down in the Act that no strike should be declared until the majority of the members have by secret ballot decided in favour of such strike. Part (*e*) has accordingly been amended.

We also think that meetings of the executive committee of a trade union should be held at least once in every three months.

*Clause 34*.—We are of opinion that it should be laid down by rules as to how to determine the representative character of a trade union. We have modified sub-clause (4) accordingly.

*Clause 35.*—We consider that it is necessary to specify the rights of a recognised trade union in greater details, and we have accordingly amended sub-clause (4).

*Clauses 40 and 41.*— We are of opinion that the refusal to enter into negotiations to settle a labour dispute either by the employer or a trade union or a certified bargaining agent is an unfair practice. So also the declaration of an illegal lock-out is an unfair practice on the part of an employer. We have amended these clauses accordingly.

*Clause 45.*—We consider that if an employer goes on committing unfair practices, the penalty for subsequent convictions should be heavier. We have accordingly amended this clause.

2. The Bill was published in Part V of the *Gazette of India,* dated the 4th March, 1950.

3. We think that the Bill has not been so altered as to require circulation under rule 77(4) of the Rules of Procedure and Conduct of Business in Parliament; and we recommend that it be passed as now amended.

B. R. AMBEDKAR
JAGJIVAN RAM
M. R. MASANI
RAMRAJ JAJWARE
*TRIBHUWAN NARAYAN SINGH
*K. T. SHAH
BALWANT SINHA MEHTA
M. L. DWIVEDI
R. L. MALVIYA
SURENDRANATH BURAGOHAIN
G. DURGABAI
HUKAM SINGH
A. C. GUHA
HARIHARNATH SHASTRI
RASOOLKHAN
**DAMODAR SWARUP SETH
A. K. MENON
AWADHESHWAR PRASAD SINHA
V. KODANDARAMA REDDY
CHANDRIKA RAM

NEW DELHI;
*The 1st December,* 1950.

*Subject to a minute of dissent.
**Subject to minutes of dissent.

## *Minutes of Dissent*

### I

While I am in general agreement with the provisions of the Trade Unions Bill as amended by the Select Committee I feel that employees of munitions and such other factories as are run by the Defence Department should have been specifically excluded from the purview of this measure. Surely, workers in such factories which are so intimately connected with national security should not be governed by the ordinary Trade Union Law. I, therefore, suggest that a specific provision should be made in the Bill excluding workers in munitions and other factories under the control of the Defence Department from the purview of this Bill.

Similarly, domestic servants should be excluded from the operation of this measure. I disagree with the amendment made by the Select Committee treating domestic servants on par with other classes of employees.

Subject to the above note I sign the report of the Select Committee.

TRIBHUWAN NARAYAN SINGH.

NEW DELHI;
*The 1st December*, 1950.

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### II

1. We regret we are unable to agree with our colleagues of the majority in the Select Committee on this Bill, as we feel that, on many points, too numerous to be all detailed here, there are radical differences between us. These are matters of fundamental principle and vital importance to the progress of organised labour in the country. We shall, however, mention a few of the most important to illustrate the nature and extent of the divergence between our views and those of the majority of our colleagues on the Select Committee.

2. There are several items in the clause giving definitions of the leading terms in the Bill, which, read with other clauses, as well as with the Labour Relations Bill, would, in effect, deny the Right of Association to the Civil Servant. This category of workers has been defined sufficiently widely to include a large variety, and a still larger number, of employees,—large, both in itself absolutely, and large, also, in proportion to the total strength of organised workers in the country. The Constitution of India enumerates the Right of Association as among the Fundamental Rights of Citizenship. The declaration of Human Rights, internationally accepted as such, also includes the right of association as among the elementary human rights. Nevertheless, this provision virtually denies that right to a very large category of workers. The Civil Servant does not cease to be a citizen, or a human being , solemnly assured of certain basic rights under the Constitution as well as by international convention, merely because he accepts employment under Government, whether at the Centre or in the States, or even in a large variety of Public Bodies, Local Authorities or Statutory Corporations. To deny or restrict such a basic Right by local legislation is, therefore, against the very foundation of Labour Organisation. We, therefore, dissent radically, in this regard, from the majority of our colleagues.

3. Trade Unionisation is, we may add, permitted and recognised, in many advanced, industrialised, democratic countries, in branches of the Civil Service comprising such Security Services as the Police. There is, therefore, no reason of principle or precedent why we should deny this obvious constitutional Right to this class of our citizens, engaged in public service.

4. If the underlying principle for such denial or restriction is the belief that Public Service is under model conditions of employment, and relations between employers and the employed, recollections of frequent strikes or threats of strike, in our leading departments of public service would dispel any such illusion. Public employment needs as much the spur or the curb of strongly unionised labours to keep to the mark, as labour engaged under any private, profit seeking employer. In fact so long as a mixed economy prevails, and considerable sectors of workers are under private as well as under public employment, the latter class of enterprises would be indulging in unfair competition, if the labour conditions of its employees are differentially treated.

5. The distinction between gazetted and non-gazetted staff or demarcation on the line of salary rates, in the case of specified categories of public employees, is as anomalous as it is illogical. The power given under the Bill to the "Appropriate Government" to vary or modify the definition of "Civil Servant" is calculated to introduce or intensify party spirit in public service, or encourage invidious undesirable favouritism by the powers that be. This does not in any way modify the primary objection to the treatment of the Civil Servant unionising, it only creates new obstacles to the growth and spread of the trade union movement in the country.

6. While welcoming the amendment made by the Select Committee whereby domestic servants would no longer be excluded from the advantages of this legislation, it must be pointed out that there is nothing in the entire Bill as originally presented or as amended by the Select Committee, which would directly foster and encourage the growth of the trade union movement in this yet unorganised class of workers. They are exposed to the worst form of exploitation. A comprehensive measure, such as this purports to be, should safeguard and protect, not only the rights and interests of existing Unions; it must stimulate and actively promote the spirit of organisation, so as the more effectively to safeguard the interests of all classes of labour equally.

7. The clauses relating to the Registration of Trade Unions, the Conditions for securing registration for the refusal, suspension or cancellation of Registration, are too cumbrous and complicated for the average employee. The provisions for appeal against the refusal, suspension or cancellation of registration are calculated, rather to involve intending Unions in considerable expenditure of time and money, than to secure justice, or effective safeguard for the rights and interests of organised workers.

8. Chapter III of the Bill, entitled "Rights and Liabilities of Registered Trade Unions", seems to be somewhat of a misnomer. There are more onerous obligations or liabilities cast upon the Registered Trade Unions under Chapter, than rights, benefits or advantages assured. The denial, by implication if not by express provision, of the right to political activity to Trade Unions consisting wholly or partly of Civil Servants, may be a minor handicap, though in point of principle, its importance can never be exaggerated. But the provision requiring the maintenance of a separate Political Fund, if any be maintained at all, and the denial of the Union's right to make subscriptions by members for political purposes compulsory, are as retrograde as they are uncalled for. The lesson of the classic Osborne Judgment in the history of the British Trade

Unions seems to be either unknown to the sponsors of the Bill and to the majority of the Select Committee; or they have sadly failed to appreciate its significance. The Labour Party in Britain would never have attained real, effective power in the government of the country, if Trade Unions, which form the core and backbone of the labour movement, had been thus handicapped against political activity to promote their immediate interests, and realise their ultimate objectives. It is such provisions as these which lay a heavy discount on constitutional methods of effecting radical social changes, and place an equally high premium on violent, revolutionary means unavoidably adopted by a despairing and exasperated proletariat. Modern trends in all advanced industrialised communities, which found their social structure and political activity on democratic principles, are in favour of permitting all legitimate constitutional activity, whether of a political or of an economic, character to Workers' Organisations *Mutatis Mutandis* these observations also apply to the Chapter on the Recognition of Trade Union.

9. Besides, the attempt rigorously to keep apart, or mutually distinguish from one another politics and economics, is an anachronism impossible to sustain in a free, sovereign country. The very Preamble of our Constitution promises Social Justice and Economic Equality to all its citizens. The two are facets of the same idea, not intrinsically hostile mutually, nor incompatible one with the other. There is no problem of politics, in a modern industrialised community, which has not its economic aspect; and *vice versa*. All aspects of modern life, all activities, all interests and objectives are so closely interconnected and interdependent, that any attempt to keep them wholly apart and uninfluenced by one another is doomed to unmitigated failure, whether by silent undermining, or open opposition. It is a cant which could be undertood when the foreigner ruled and exploited the land and its people; but today, it is a doctrine, neither intelligible nor excusable, neither practicable nor permissible to any one claiming in the least to be a lover of justice or freedom.

10. Attention may be drawn, in this connection, to the clause which restricts the number or proportion of persons who are not "ordinary members" of a Trade Union, to be elected office bearers. This provision rests on a basic misconception of the role of the ordinary citizen in the progress and development of Trade Unionism. The movement for workers' Organisations is still in its infancy in this country. An overwhelming proportion of our population is illiterate; and workers in modern industry are no exception to the rule.

11. The problem, again, of a country's aggregate economy in which the place and fuction of organised labour is only one factor along with several others to be considered and ordinated, are much too complex, numerous, and many-sided to be properly appreciated, in their true perspective and proportion, by the average toiler. He is too exhausted and wearied by his daily dose of labour to have any energy left for analysing and understanding, too unversed in the mysteries of economics to solve such complex questions at all satisfactorily even to himself. On the other hand, the employing class, or its minions, though better educated, with a wider understanding and deeper insight than the average worker, are too hostile by their education and outlook, their training and experience, to have any real sympathy with the demands of Labour, ever growing more conscious of its dues. Very few of our fellow citizens have innate sympathy and real understanding, not only of the problems of a given Union, or even of the Working Class as a whole, but also of our aggregate national economy, its predicament and potentiality. If they come forward to guide, advise, lead or organise Labour, and yet are excluded or restricted

from offering the full benefit of their education, information, understanding or experience to the growing muds of Labour, the interests of Labour,—both as a class and as a factor in the production of new wealth,—will not suffer alone; but the long-range and aggregate interests of the community collectively, of the national economy as a whole, will suffer even more irreparably.

12. Our objection to this provision rests not only on the long range interests of the community collectively, nor on the demands of industrial peace and social justice. Even on the more immediate and narrower ground of a given labour union, we think it would be harmful to prohibit or restrict a full measure of guidance, advice, or service by experienced "outsiders". Ordinary workers must, of course, have their full share in the conduct of their own affairs and shaping of their basic policy. But without an adequate leavening by the broader outlook and wider sympathies of such outsiders, there would be ever present a danger of narrowness of outlook, of obstinacy in negotiation, which may prove injurious to the cause of the given Trade Union itself, and to the progress of labour organisation as a whole. We would, therefore, put no statutory, or specific, limit on the number or proportion of the non-ordinary members who can be elected to executive office in a Trade Union.

13. The definition, or enumeration, of 'Unfair Practices' (Chapter V) and the penalties provided against them, display a lack of sympathy with the labour movement and its customary activities, which cannot but be deprecated.

14. There are many other provisions, in the wording or spirit of which we differ from the majority of our colleagues. We shall bring out these differences concretely when the Bill is considered clause by clause. For the purpose of this Minute, we trust enough has been said to show how deep, how wide, how varied is our difference with our colleagues of the majority.

K. T. SHAH.
DAMODAR SWARUP SETH.

NEW DELHI;
*The 1st December*, 1950.

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*Minute of Dissent*

Not having been able to see eye to eye with the majority of my colleagues of the Select Committee on the Trade Unions Bill, I regret I feel compelled to write this separate note of Dissent.

*Introductory*:

The broad principles on the basis of which I am totally opposed to the enactment into law of these measures, are as follows:

(*a*) Right of Association and Right to Organise.
(*b*) Right of Collective Bargaining.
(*c*) Right of Strike.
(*d*) Free Trade Unionism.
(*e*) Trade Union Democracy.

It would not be inappropriate to note here that the function of any Labour Legislation should primarily be :

(*a*) Protection of Labour against certain civil and criminal liabilities in common law such as conspiracy, restraint of trade, picketting and the like, as Labour happens to be the weaker party-*vis-a-vis* the Employer ;

(*b*) To advance the cause of Labour by making Statutory Provisions for living wages, social security, safe and healthy conditions of work, better and improved conditions of living ; and effective voice in the management, etc., which alone can create the necessary psychology in workers for obtaining increased production, expansion of industries and prosperity of the country.

2. *Right of Association and Right to Organise.*

The Indian Trade Union Act, 1926, guaranteed this right. It has been regarded fundamental by the I.L.O. and by the U.N.O. The International Confederation of Free Trade Unions considered it inviolate. Not only that, it has been guaranteed even under the Constitution of India and to that extent, the provisions of the Trade Unions Bill, if enacted into law, will be unconstitutional and therefore *null* and *void*.

3. The Bill however violates these rights as follows :—

(*a*) Restrictions on the exercise of the right by Civil servants and Government Employees, create invidious distinction between these and other employees and are incompatible with the principle of the Right of Association and Right to Organise ;

(*b*) The scope of political awakening among the workers through their Trade Unions should be widened by extending the field for political activities of any kind ;

(*c*) The severe restrictions placed on participation of non-employees among workers through their Trade Unions movement as honorary members of a trade union must have been removed, as the working class in this country, are illiterate, backward, and unfamiliar with the English language or any kind of organisational or administrative work as it is, and should have been allowed the benefit of the services of such honorary members limiting the number to at least 33 per cent, if not 50 per cent.

(*d*) Right of Strike :

While voluntary arbitration is alawys welcome in the exercise of the workers right of collective bargaining in all democratic countries, Right of Strike has justifiably been considered the chief weapon in the armoury of the working class.

The wide definition of strike, however, in the Trade Union Bill (clauses 2-17) read with the provisions regarding strikes in the Labour Relations Bill may at the intervention of Government, make any strike a criminal offence, being either illegal or irregular and will consequently be accompanied with heavy punishments on the employees and their trade unions involving loss of legal personality and consequential loss of protection and benefits of the law. These provisions will quite naturally, have their adverse repercussions on the psychology of the workers, as they will severely restrict the workers right of collective bargaining, assured to them by the I.L.O.

4. Amalgamation of Trade Unions in the same establishment or class of establishments should, on similar grounds, be encouraged by reducing the minimum number from 50 per cent to 25 per cent of the total number of each of the unions concerned. Where, however, rival unions exist, let democracy be tried out in its true spirit and justice done by providing an impartial machinery such as the Labour Court or the National Labour Relations Board, as in U.S.A., instead of having judicial decisions to be made by the Registrar as under Section 35(3) of the Trade Unions Bill.

5. The Trade Union Rights as enjoyed by "approved unions" under the Bombay Industrial Relations Act, 1946, should be made available to all registered unions such as:—

(*a*) Collection of dues from union members on the premises, where wages are paid;

(*b*) Putting up union's "Notice Board" for affixing its notices on the undertaking's premises;

(*c*) Holding discussions with union members on such premises;

(*d*) Meeting and discussing employees' grievances with the employer;

(*e*) Inspection of any place of the undertaking where any member may be working.

DAMODAR SWARUP SETH.

NEW DELHI;
*The* 1*st December*, 1950

# THE TRADE UNIONS BILL, 1950.

(AS AMENDED BY THE SELECT COMMITTEE)

*(Words sidelined or underlined indicate the amendments suggested by the Committee; asterisks indicate omissions.)*

BILL NO. 14 OF 1950

A

## BILL

*to provide for the registration and recognition of trade unions and in certain respects to define the law relating to registered and recognised trade unions and to certain unfair practices by employers and recognised trade unions.*

BE it enacted by Parliament as follows :—

## CHAPTER I

### PRELIMINARY

1. *Short title, extent and commencement.*—(*1*) This Act may be called the Trade Unions Act, 1950.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf.

2. *Interpretation.*—In this Act, unless the context otherwise requires,—

(*1*) "appropriate Government" means—

(*a*) the Central Government, in relation to any trade union whose objects are not confined to one State or of which not less than fifty per cent of the members are persons employed to do any work for hire or reward in any of the following establishments, namely :—

(*i*) railways,

(*ii*) major ports,

(*iii*) any form of inland or costal transport which maintains establishments and connected services in more than one State,

(*iv*) mines,

(*v*) oilfields,

(*vi*) industries the control of which by the Union has been declared by Parliament by law to be expedient in the public interest and which are notified in this behalf by the Central Government in the Official Gazette,

(*vii*) banking companies having branches in more than one State,

(*viii*) insurance companies having branches in more than one State,

(*ix*) such corporations established by the authority of the Central Government as are notified in this behalf by that Government in the Official Gazette,

(*x*) establishments carried on by or under the authority of the Central Government or in which not less than fifty per cent of the total capital is provided by that Government,

(*xi*) any other establishment or class of establishments the objects or activities of which are not confined to one State and which is notified in this behalf by the Central Government in the Official Gazette, and

(*2*) (*a*) "civil servant" means a person who is a member of a civil service of the Union or an All-India service or a civil service of a State or holds any civil post under the Union or a State:

Provided that such a person shall not be deemed to be a civil servant if he—

(*i*) is paid from contingencies, or

(*ii*) is employed either as a non-gazetted servant or as a gazetted servant drawing a basic pay (excluding allowances) of not less than two hundred rupees per mensem in any of the following establishments owned or managed by or under the Central or a State Government, namely:

I. railways and other forms of transport;

II. ports, docks, wharves or jetties;

III. telegraph, telephone, wireless telegraph or broadcasting establishments;

IV. mints;

V. printing presses;

VI. ordnance factories, depots or other installations;

VII. public works establishments, in so far as they relate to work-charged staff;

VIII. irrigation and electric power establishments;

IX. plantations;

X. mines, as defined in clause (*f*) of section 3 of the Indian Mines Act, 1923 (IV of 1923);

XI. factories; as defined in clause (*m*) of section 2 of the Factories Act, 1948 (LXIII of 1948).

*Explanation.*—Notwithstanding anything contained in the proviso, a person shall not be deemed to be excluded from being a civil servant within the meaning of this clause if such person is employed—

(*i*) in the offices of the Railway Board, or of the General Managers of Railways and other forms of transport, or

(*ii*) in the offices of the Director-General of Posts and Telegraphs and any Postmaster-General or the Director-General of Broadcasting; or

(*iii*) in the offices of the Director-General of Ordnance Factories; or

(*iv*) in the offices of any chief engineer or superintending engineer or any public works establishment; or

(*v*) as a telegraphist, telephone or wireless operator;

(*b*) the appropriate Government may, if it is satisfied that the public interest so requires, by notification in the Official Gazette, amend the entries specified in clause (*a*) so as to include in, or exclude from, the definition of "civil servant" any class of persons employed in any office or in any establishment or class of establishments:

Provided that no such notification shall be issued so as to include any class of persons within the definition of "civil servant" unless the appropriate Government is satisfied that the conditions of service applicable to such class of persons are not less satisfactory than those applicable to civil servants of a similar class:

Provided further that every such notification shall, on the first available opportunity, be laid by the appropriate Government before Parliament or, as the case may be, before the Legislature of the State;

(*3*) "employee" means any person employed in any establishment to do any work for hire or reward, whether the terms of employment be express or implied, and includes any person who has been dismissed or discharged or whose work has ceased in connection with, or as a consequence of, a labour dispute or from whose dismissal or discharge a labour dispute has arisen; * * *

(*4*) "employer", in relation to any establishment, means a person who engages the services of another person to do any work for hire or reward in that establishment, and includes—

(*a*) any person who has the ultimate control of such establishment;

(*b*) in relation to any establishment carried on by or under the authority of any department of the Government, the authority prescribed in this behalf, or, where no authority is so prescribed, the head of the department;

(*c*) in relation to any establishment carried on by a local authority, the chief executive officer of that authority;

(*d*) in relation to any person employed in any establishment through any contractor or agent for the execution on the premises of the establishment concerned by or under such contractor or agent of the whole or any part of any work which is ordinarily part of the trade, business, manufacture or industry of the establishment, the person engaging the services of the contractor or agent;

(*5*) "establishment" means any unit of employment in any trade, business, manufacture, industry, service, calling, profession or other occupation or avocation, and includes any unit of employment under the authority of the * * * Government or a local authority or an association of persons, whether incorporated or not;

(6) "executive" means the body, by whatever name called, to which the management of the affairs of a trade union is entrusted;

(7) "Government employee" means a person who holds any civil post in connection with the affairs of the Union or a State;

(8) "Labour Court" means, in relation to a trade union, a Labour Court appointed by the appropriate Government under sub-section (1) of section 31;

(9) "labour dispute" means any dispute or difference between an employer on the one hand and one or more of his employees on the other, or between employees and employees, concerning--

(a) the employment or non-employment of any employee or class of employees; or

(b) the terms or conditions of employment of any employee or employees generally or any class of them; or

(c) the privileges, rights, duties or liabilities of the employer or of any employee or the employees generally or any class of them, whether or not there is a subsisting agreement between the employer and the employee or employees regarding all or any such matters,

and includes any dispute or difference which may arise on the dismissal of an employee or which relates to the reinstatement of such employee;

(10) "lock-out" means the closing of a place or part of a place of employment or the total or partial suspension of work by an employer or the total or partial refusal by an employer to continue to employ any group of his employees, where such closing, suspension or refusal by an employer occurs in consequence of a labour dispute and is intended for the purpose of compelling his employees, or of aiding another employer to compel his employees, to accept terms or conditions of, or affecting, employment;

(11) "officer", in the case of a trade union, includes any member of the executive thereof, but does not include an auditor;

(12) "prescribed" means prescribed by regulations made under this Act;

(13) "recognised trade union" means a trade union recognised under this Act;

(14) "registered office" means that office of a trade union which is registered under this Act as the head office thereof;

(15) "registered trade union" means a trade union registered under this Act;

(16) "Registrar" means a Registrar of trade unions appointed by the appropriate Government under section 3, and "the Registrar", in relation to any trade union, means the Registrar appointed for the State in which the head or registered office, as the case may be, of that trade union is situated;

(17) "strike" means a total or partial cessation of work by employees acting in combination, or a concerted refusal or a refusal under a common understanding, of any group of employees to continue to work where such cessation or refusal by the employees occurs in consequence of a labour

dispute and is intended for the purpose of compelling their employer or aiding the employees of any other establishment to compel their employer to accept terms or conditions of, or affecting, employment; "illegal strike" means a strike which by virtue of any law for the time being in force is illegal; and "irregular strike" means an illegal strike or a strike declared by a trade union in contravention of its rules referred to in clause (*d*) of sub-section (*1*) of section 33;

(*18*) "supervisor" means any person who, on behalf of the employer, has the authority to supervise the work of other employees, to direct them in the work to be done, to remedy their grievances, to recommend any action to be taken by the employer, or to transfer an employee from one department to another or to promote or reward an employee, or to discharge, suspend or otherwise punish an employee;

(*19*) "trade union" means any combination of employers or of employees, whether temporary or permanent, formed primarily for the purpose of regulating the relations between employees and employers or between employees and employees, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more trade unions:

Provided that this Act shall not affect—

(*i*) any agreement between partners as to their own business;

(*ii*) any agreement in consideration of the sale of the goodwill of a business or of instruction in any profession, trade or handicraft;

(*20*) any reference to an enactment not in force in any Part B State shall, in relation to that State, be construed as a reference to the corresponding law in force in that State.

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## CHAPTER II

### Registration of Trade Unions

3. *Appointment of Registrars.*—The appropriate Government may appoint a person to be the Registrar of trade unions for each State.

4. *Application for registration.*—Any seven or more members of a trade union of whom not less than five shall be ordinary members may, by subscribing their names to the constitution and rules of the trade union and by otherwise complying with the provisions of this Act with respect to registration, apply for registration of the trade union under this Act.

5. *Mode of application.*—(*1*) Every application for registration of a trade union shall be made to the Registrar, and shall be accompanied by a copy of the constitution and rules of the trade union and a statement of the following particulars, namely:—

(*a*) the names, occupations and addresses of the members making the application;

(*b*) the name of the trade union and the address of its head office; and

(*c*) the * names, ages, addresses, designations and occupations of the offices of the trade union.

(*2*) Where a trade union has been in existence for more than one year before the making of an application for its registration, there shall be delivered to the Registrar, together with the application, a general statement of the assets and liabilities of the trade union prepared in such form and containing such particulars as may be prescribed.

6. *Conditions for registration of a trade union.*—A trade union shall not be entitled to registration under this Act, unless the executive thereof is constituted in accordance with the provisions of this Act, and the rules thereof provide for the following matters, namely :—

(*a*) the name of the trade union;

(*b*) * * the objects for which the trade union has been established;

(*c*) * * the purposes for which the general funds of the trade union may be applicable, all of which purposes shall be purposes to which such funds are lawfully applicable under this Act;

(*d*) the maintenance of a list of members of the trade union and adequate facilities for the inspection thereof by the officers and members of the trade union;

(*e*) the admission of ordinary members who shall be persons actually engaged or employed in any establishment or class of establishments with which the trade union is connected, and also the admission of the number of honorary or temporary members as officers referred to in section 24 to form the executive of the trade union:

Provided that no person shall be excluded from the membership of a trade union merely on grounds of sex, religion or caste:

Provided further that the provisions of this clause shall not apply in the case of a federation of trade unions;

(*f*) the conditions under which any member shall be entitled to any benefit assured by the rules and under which any fine or forfeiture may be imposed on the members;

(*g*) the rate of subscription payable by ordinary members which shall not be less than two annas per month, provided that in the case of employees employed in agriculture, cottage industries in rural areas, conservancy service or such other industries as may be notified in this behalf by the appropriate Government in the Official Gazette, a lower rate of subscription per annum may be prescribed;

(*h*) the circumstances (including default in payment of subscription for a specified period) in which the name of a member shall be removed from the list of members;

(*i*) the procedure for taking disciplinary action against members who go on strike without the sanction of the executive, or the majority of the members of the trade union, or who otherwise violate the rules of the trade union;

(*j*) the procedure for taking disciplinary action against officers who contravene the provisions of this Act or of the rules of the trade union;

(*k*) where the trade union consists, whether wholly or partly, of civil servants, the prohibition of its members from participating directly or indirectly in any form of political activity, and removal of the name of any member who takes part in any form of political activity from the list of its members;

(*l*) the manner in which the rules may be amended, varied or rescinded;

(*m*) the manner in which the members of the executive and the other officers of the trade union may, subject to the regulations made under this Act, be appointed and removed;

(*n*) the safe custody of the funds of the trade union, an annual audit, in such manner as may be prescribed, of the accounts thereof, and adequate facilities for the inspection of the account books by the officers and members of the trade union; and

(*o*) the manner in which the trade union may be dissolved and the funds, if any, on such dissolution may be distributed.

7. *Power to call for further particulars and to require alteration of name.*—(*1*) The Registrar may call for further information for the purpose of satisfying himself that any application complies with the provisions of section 5, or that the trade union is entitled to registration under section 6, and may refuse to register the trade union until such information is supplied.

(*2*) If the name under which a trade union is proposed to be registered is identical with that by which any other existing trade union has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public or the members of either trade union, the Registrar shall require the persons applying for registration to alter the name of the trade union stated in the application, and shall refuse to register the union until such alteration has been made.

8. *Registration.*—(*1*) Within three months of the date of the receipt of an application under section 5, the Registrar shall, after considering whether a trade union has complied with all the requirements of this Act in regard to registration, make an order in writing either directing the registration of the trade union or refusing such registration.

(*2*) On making an order under sub-section (*1*) directing the registration of a trade union, the Registrar shall register the trade union by entering in a register, to be maintained in such form as may be prescribed, the particulars relating to the trade union contained in the statement accompanying the application for registration.

9. *Certificate of registration.*—The Registrar, on registering a trade union under section 8, shall issue a certificate of registration in the prescribed form which shall be conclusive evidence that the trade union has been duly registered under this Act.

10. *Suspension or cancellation of registration.*—A certificate of registration of a trade union may be suspended or cancelled by the Registrar—

(*a*) on the application of the trade union to be verified in such manner as may be prescribed, or

(*b*) if the Registrar, either of his own motion or on receipt of a report from any Inspector appointed under this Act, is satisfied that—

(*i*) the rules of the trade union, registered before the commencement of this Act, have not been amended, within the time allowed by the Registrar, so as to provide for all the matters provision for which is required under section 6; or

(*ii*) the trade union has ceased to exist; or

(*iii*) the certificate has been obtained by fraud or mistake; or

(*iv*) the trade union has, wilfully and after notice from the Registrar, contravened any provision of this Act or of any regulation made thereunder or of any rule of the trade union or allowed any rule of the trade union to be continued in force which is inconsistent with this Act or any regulation made thereunder, or has rescinded any rule of the trade union providing for any matter provision for which is required by section 6; or

(*v*) the trade union has refused or failed to comply with any term of an order or award made by a court or tribunal, or of a settlement arrived at, or where the trade union is a certified bargaining agent, of a collective agreement concluded, under the Labour Relations Act, 1950; or

(*vi*) where the trade union consists, whether wholly or partly of civil servants, the trade union has refused or failed to remove the name of any member who has taken part in any political activity, from the list of its members:

Provided that not less than two months' previous notice in writing specifying the grounds on which it is proposed to suspend or cancel the certificate shall be given by the Registrar to the trade union before the certificate is suspended or cancelled otherwise than on the application of the trade union:

Provided further that the certificate shall not be suspended or cancelled if the Registrar is satisfied that the grounds specified in the notice referred to in the first proviso have been removed before the expiry of two months from the date of notice.

11. *Appeal.*—(*1*) Any person aggrieved by any refusal of the Registrar to register a trade union or by the suspension or cancellation of a certificate of registration may, within such period as may be prescribed, prefer an appeal—

(*i*) to such court or authority as may be prescribed, or

(*ii*) where no such court or authority has been prescribed under clause (*i*),—

(*a*) to the High Court, if the head office of the trade union is situated within the limits of a presidency-town, or

(*b*) where the head office is situated in any other area, to such court, not inferior to the court of an additional or assistant judge of a principal civil court of original jurisdiction, as the appropriate Government may appoint in this behalf for that area;

(2) The appellate court or authority may dismiss the appeal, or pass an order directing the Registrar to register the trade union and to issue a certificate of registration under the provisions of section 9 or setting aside the order for suspension or cancellation of the certificate, as the case may be, and the Registrar shall comply with such order.

(3) For the purpose of an appeal under sub-section (1), an appellate court or authority shall, so far as may be, follow the same procedure and have the same powers as it follows and has when trying a suit under the Code of Civil Procedure, 1908 (V of 1908), and may direct by whom the whole or any part of the costs of the appeal shall be paid and such cost shall be recovered as if they had been awarded in a suit under the said Code.

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12. *Registered office.*—All communications and notices to a registered trade union may be addressed to its registered office, and notice of any change in the address of the head office shall be given within fourteen days of such change to the Registrar in writing, and the changed address shall be recorded in the register referred to in section 8.

13. *Incorporation of registered trade unions.*—Every registered trade union shall be a body corporate by the name under which it is registered, and shall have perpetual succession and a common seal with power to acquire and hold both moveable and immoveable property and to contract, and shall by the said name sue and be sued.

14. *Certain Acts not to apply to registered trade unions.*—The following Acts, namely, the Societies Registration Act, 1860 (XXI of 1860), the Co-operative Societies Act, 1912 (II of 1912), and the Indian Companies Act, 1913 (VII of 1913), shall not apply to any registered trade union, and the registration of any such trade union under any of the aforesaid Acts shall be void.

## CHAPTER III

### Rights and Liabilities of Registered Trade Unions

15. *Inspectors.*—(1) The appropriate Government may appoint as many Inspectors as may be necessary for inspecting the registered trade unions and for exercising such other functions as may be prescribed.

(2) An Inspector may be appointed for any specified area or for a specified class of trade unions.

16. *Maintenance of list of members, etc.*—Every registered trade union shall, in such form as may be prescribed, maintain—

(a) a list of members;

(b) a register showing particulars of subscription paid by every member;

(c) an account book showing the receipts and expenditure; and

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(*d*) a minute book for recording proceedings of the meetings of the executive of the trade union or of the general body or of other members of the trade union.

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17. *Objects on which general funds may be spent.*—The general funds of a registered trade union shall not be spent on any object other than the following, namely:—

(*a*) the payment of salaries, allowances and expenses to officers of the trade union;

(*b*) the payment of expenses for the administration of the trade union including audit of the accounts of the general funds of the trade union

(*c*) the prosecution or defence of any legal proceeding to which the trade union or any member thereof is a party, when such prosecution or defence is undertaken for the purpose of securing or protecting any rights of the trade union as such or any rights arising out of the relations of any member with his employer or with a person whom the member employs

(*d*) the conduct of labour disputes on behalf of the trade union or any member thereof;

(*e*) the compensation of members for loss arising out of labour disputes;

(*f*) allowances to members or their dependants on account of death old age, sickness, accidents or unemployment of such members;

(*g*) the issue of, or the undertaking of liability under, policies of assurance on the lives of members, or under policies insuring members against sickness, accident or unemployment;

(*h*) the provision of educational, social or religious benefits for members (including the payment of the expenses of funeral or religious ceremonies for deceased members) or for the dependants of members;

(*i*) the upkeep of a periodical published mainly for the purpose of discussing questions affecting employers or employees as such;

(*j*) the payment, in furtherance of any of the objects on which the general funds of the trade union may be spent, of contributions to any cause intended to benefit employees in general, provided that the expenditure in respect of such contributions in any financial year shall not at any time during that year be in excess of one-fourth of the combined total of the gross income which has up to that time accrued to the general funds of the trade union during that year and of the balance at the credit of those funds at the commencement of that year; and

(*k*) subject to any conditions contained in the notification, any other object notified by the appropriate Government in the Official Gazette.

18. *Constitution of a separate fund for political purposes.*—(*1*) A registered trade union may constitute a separate fund, from contributions separately levied for or made to that fund, from which payments may be made, for the promotion of the civic and political interests of its members, in furtherance of any of the objects specified in sub-section (*2*):

Provided that where a trade union consists wholly of Government employees, no such separate fund shall be constituted;

Provided further that where a trade union consists partly of Government employees and partly of other employees, no contribution to such separate fund shall be levied from, or made by, any Government employee.

(*2*) The objects referred to in sub-section (*1*) are—

(*a*) the payment of any expenses incurred, either directly or indirectly, by a candidate or prospective candidate for election as a member of any legislative body constituted under the Constitution, or of any local authority, before, during or after the election in connection with his candidature or election; or

(*b*) the holding of any meeting or the distribution of any literature or documents in support of any such candidate or prospective candidate; or

(*c*) the maintenance of any member of a trade union who is a member of any legislative body constituted under the Constitution, or of any local authority; or

(*d*) the registration of electors or the selection of a candidate for any legislative body constituted under the Constitution, or for any local authority; or

(*e*) the holding of political meetings of any kind, or the distribution of political literature or political documents of any kind.

(*3*) No member shall be compelled to contribute to the fund constituted under sub-section (*1*); and a member who does not contribute to the said fund shall not be excluded from any benefits of the trade union, or placed in any respect either directly or indirectly under any disability or at any disadvantage as compared with other members of the trade union (except in relation to the control or management of the said fund) by reason of his not contributing to the said fund; and contribution to the said fund shall not be made a condition for admission to the trade union.

19. *Criminal conspiracy in labour disputes.*—No officer or member of a registered trade union shall be liable to punishment under sub-section (*2*) of section 120B of the Indian Penal Code (Act XLV of 1860), in respect of any agreement made between the members for the purpose of furthering any such object of the trade union as is specified in section 17, unless the agreement is an agreement to commit an offence.

20. *Immunity from civil suit in certain cases.*—(*1*) No suit or other legal proceeding shall be maintainable in any civil court against any registered trade union or any officer or member thereof in respect of any act done in contemplation or furtherance of a labour dispute * * * on the ground only that such act induces some other person to break a contract of employment, or that it is in interference with the trade, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.

(*2*) A registered trade union shall not be liable in any suit or other legal proceeding in any civil court in respect of any tortious act done in contemplation or furtherance of a labour dispute by an agent of the trade union if it is proved that such person acted without the knowledge of, or contrary to express instructions given by, the executive of the trade union.

21. *Enforceability of agreements.*—Notwithstanding anything contained in any other law for the time being in force, an agreement between the members of a registered trade union shall not be void or voidable merely by reason of the fact that any of the objects of the agreement are in restraint of trade :

Provided that nothing in this section shall enable any civil court to entertain any legal proceeding instituted for the express purpose of enforcing or recovering damages or the breach of any agreement concerning the conditions on which any members of a trade union shall or shall not sell their goods, transact business, work, employ or be employed.

22. *Right to inspect books of trade union.*—The account books of a registered trade union and the list of members thereof shall be open to inspection by an officer or member of the trade union at such times as may be provided for in the rules of the trade union.

23. *Rights of minors to membership of trade unions.*—Any person who has attained the age of fifteen years may be a member of a registered trade union subject to any rules of the trade union to the contrary, and may, subject as aforesaid, enjoy all the rights of a member and execute all instruments and give all acquittances necessary to be executed or given under the rules :

Provided that no person who has not attained the age of eighteen years shall be an officer of any such trade union.

24. *Persons other than ordinary members as officers of trade unions.*—(1) Subject to any regulations made in this behalf by the Central Government, the number of persons, who, without being ordinary members of any registered trade union are entitled to be officers thereof, shall not exceed four or one-fourth of the total number of members of the executive of that trade union, whichever is less :

Provided that no such person shall be entitled to be an officer of a trade union unless he is a citizen of India :

Provided further that where a trade union consists, whether wholly or partly of civil servants, no person who is not an ordinary member thereof shall be entitled to be an officer of that trade union.

(2) Where a recognised trade union commits any unfair practice referred to in section 40 and the recognition of that trade union is withdrawn by order of a Labour Court under section 36, any person, who is an officer of that trade union without being an ordinary member thereof * * * shall be debarred from becoming an officer of that trade union or any other trade union for a period of three years from the date on which the order of the Labour Court is made.

25. *Change of name.*—Any registered trade union may, with the consent of not less than two-thirds of the total number of its members and subject to the provisions of section 27, change its name.

26. *Amalgamation of trade unions.*—Any two or more registered trade unions may become amalgamated together as one trade union with or without dissolution or division of the funds of such trade unions or either or any of them; provided that the votes of at least one-half of the members of each or

every such trade union entitled to vote are recorded, and that at least sixty per cent of the votes recorded are in favour of the proposal.

27. *Notice of change of name or amalgamation.*—(*1*) Notice in writing of every change of name and of every amalgamation, signed, in the case of a change of name, by the Secretary and by seven members of the trade union changing its name, and, in the case of an amalgamation, by the Secretary and by seven members of each and every trade union which is a party thereto, shall be sent to the Registrar, and where the head office of the amalgamated trade union is situated in a different State, to the Registrar of such State.

(*2*) If the proposed name is identical with that by which any other existing trade union has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public or the members of either trade union, the Registrar shall refuse to register the change of name.

(*3*) Save as provided in sub-section (*2*), the Registrar shall, if he is satisfied that the provisions of this Act in respect of change of name have been compiled with register the change of name in the register referred to in section 8 and the change of name shall have effect from the date of such registration.

(*4*) The Registrar of the State in which the head office of the amalgamated trade union is situated shall, if he is satisfied that the provisions of this Act in respect of amalgamation have been compiled with and that the trade union formed thereby is entitled to registration under section 6, register the trade union in the manner provided in section 8, and the amalgamation shall have effect from the date of such registration.

28. *Effects of change of name and of amalgamation.*—(*1*) The change in the name of a registered trade union shall not affect any rights or obligations of the trade union or render defective any legal proceeding by or against the trade union, and any legal proceeding which might have been continued or commenced by or against it by its former name may be continued or commenced by or against it by its new name.

(*2*) An amalgamation of two or more registered trade unions shall not prejudice any right of any of such unions or any right of a creditor of any of them.

29. *Dissolution.*—(*1*) When a registered trade union is dissolved, notice of the dissolution signed by seven members and by the secretary of the trade union shall, within fourteen days of the dissolution, be sent to the Registrar, and shall be registered by him if he is satisfied that the dissolution has been effected in accordance with the rules of the trade union, and the dissolution shall have effect from the date of such registration.

(*2*) Where the dissolution of a registered trade union has been registered and the rules of the trade union do not provide for the distribution of funds of the trade union on dissolution, the Registrar shall divide the funds amongst the members in such manner as may be prescribed.

30. *Returns.*—(*1*) There shall be sent annually to the Registrar, on or before such date as may be prescribed, a general statement, audited in the prescribed manner, of all receipts and expenditure of every registered trade union during the year ending on the 31st day of March next preceding such prescribed date, and of the assets and liabilities of the trade union existing on such 31st day of March and the statement shall be prepared in such form and shall comprise such particulars as may be prescribed.

(*2*) Together with the general statement there shall be sent to the Registrar a list of members of the trade union and a statement showing to which federation of trade unions, if any, that trade union is affiliated, and all changes of officers made by the trade union during the year to which the general statement refers, together also with a copy of the rules of the trade union corrected up to the date of the despatch thereof to the Registrar.

(*3*) A copy of every alteration made in the rules of a registered trade union shall be sent to the Registrar within fifteen days of the making of the alteration.

(*4*) Where a registered trade union changes its affiliation from one federation of trade unions to another, it shall, within fifteen days of making such change, furnish that information to the Registrar.

(*5*) Every registered trade union shall submit to the Registrar, at the prescribed time and in the prescribed manner, such other returns or information in relation to that trade union as may be prescribed.

## CHAPTER IV

### Recognition of Trade Unions

31. *Constitution, powers and procedure of Labour Courts.*—(*1*) The appropriate Government may constitute as many Labour Courts, as it considers necessary, for the purpose of recognising trade unions and discharging such other functions as may be assigned to them by or under this Act and where Labour Courts have been constituted under the Labour Relations Act, 1950, such Courts may be vested with all the powers of Labour Courts under this Act.

(*2*) A Labour Court shall be presided over by a person, appointed by the appropriate Government, who—

(*a*) is, or has been, a member of the judicial service in a State, or

(*b*) is, or has been, a member of an executive service in a State having not less than two years' experience in dealing with matters regulating the relationship between employers and employees, or

(*c*) is qualified for appointment as a member of judicial service:

Provided that the maximum age limit, if any, applicable to the appointment of a member of such service shall not apply to any appointment under this section:

Provided further that no appointment under this section shall be made except with the approval of the High Court of the State in which the Labour Court has, or is intended to have, its usual seat.

(*3*) A Labour Court shall have all the powers of a civil court for the purposes of receiving evidence, administering oaths, enforcing the attendance of witnesses, and requiring the discovery and production of documents, and shall be deemed to be a civil court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898).

(*4*) The proceedings of Labour Courts shall be regulated and conducted in such manner as may be prescribed.

32. *Recognition by agreement.*—(*1*) Subject to the provisions of this section, an employer may recognise one or more registered trade unions.

(*2*) Where an employer agrees to recognise a registered trade union, a memorandum of agreement signed by the employer and the officers of the trade union, or their authorised representatives, may be presented to the Registrar who shall record the memorandum in a register in the prescribed manner.

(*3*) Such an agreement may be revoked by either party thereto on application made to the Registrar in the prescribed manner.

(*4*) While such an agreement is in force, the trade union shall, in its relations with the employer with whom the agreement is made, have all the rights of a recognised trade union under this Act, and shall for all other purposes be deemed to be a recognised trade union.

(*5*) A trade union consisting of civil servants shall not be recognised by the appropriate Government, if it does not consist wholly of civil servants or if such trade union is affiliated to a federation of trade unions to which a trade union consisting of members other than civil servants is affiliated.

(*6*) A trade union shall not be recognised by an employer in relation to any hospital or educational institution if it does not consist wholly of employees of any hospital or educational institution, as the case may be.

(*7*) A trade union consisting partly of supervisors and partly of other employees, or partly of the watch and ward staff and partly of other employees, shall not be recognised by an employer.

33. *Conditions for recognition by order of a Labour Court.*—(*1*) Subject to the provisions of this section and sub-sections (5), (6) and (7) of section 32, a trade union shall be entitled to recognition by order of a Labour Court under section 34 if it fulfils the following conditions, namely :—

(*a*) that it is a registered trade union, and that it has complied with all the provisions of this Act;

(*b*) that all its ordinary members are employees in the same establishment or class of establishments;

(*c*) that it is representative of all the employees or any particular class of employees employed by the employer in that establishment or class of establishments;

* * * * * *

(*d*) that its rules provide for the procedure for declaring a strike and in particular, provision is made that no strike shall be declared until the majority of the members of the trade union have, by secret ballot held in such manner as may be prescribed, decided in favour of such a strike;

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(*e*) that its rules provide that a meeting of its executive shall be held at least once in every three months :

Provided that the reference in clause (*c*) to the employer shall, as respects recognition by an association of employers, be construed as a reference to all the employers who are members of the association :

Provided further that the provisions of clause (*d*) shall not apply to a trade union consisting wholly of civil servants.

* * * * * *

(*2*) Where application for recognition is made under section 34 by more than one registered trade union, the trade union having the largest membership shall have preference to other trade unions.

34. *Application to, and grant of recognition by, Labour Courts.*—(*1*) Where a registered trade union having applied for recognition to an employer has failed to obtain recognition within a period of three months from the date of making such application, it may apply in writing, setting out such particualrs as may be prescribed, to the Labour Court for recognition by that employer.

(*2*) A single application may be made under sub-section (*1*) for recognition—

(*a*) by more than one employer, or

(*b*) by an association of employers as well is one or more members thereof.

(*3*) The Labour Court may call for further information for the purpose of ascertaining whether the trade union is entitled to recognition by the employer under this section, and if the trade union fails to supply the required information within the time granted, the Labour Court may dismiss the application.

(*4*) The Labour Court shall, after serving notice in the prescribed manner on the employer, investigate whether the trade union fulfils the conditions for recognition set out in section 33 and sub-sections (*5*), (*6*) and (*7*) of section 32, and in deciding whether the trade union is a representative one under clause (*c*) of sub-section (*1*) of section 33, the Labour Court shall have regard to the rules that may be made in this behalf to determine the representative character of a trade union either generally or in respect of any particular establishment or class of establishments.

(*5*) If the Labour Court is satisfied that the trade union is fit to be recognised by the employer, it shall make an order directing such recognition and may, where the recognition is to be by an association of employers, further direct, by the same or a subsequent order, recognition by every member of the association in relation to whom the trade union fulfils the condition set out in clause (*c*) of sub-section (*1*) of section 33.

(*6*) Every order made under sub-section (*5*) shall be forwarded to the appropriate Government which shall notify it in the Official Gazette, and while a recognition directed by such order is in force, the trade union shall, in its relations with the employer concerned, have all the rights of a recognised trade union under this Act and shall for all other purposes be deemed to be a recognised trade union.

35. *Rights of recognised trade unions.*—(*1*) The executive of a recognised trade union or its authorised representatives are entitled to negotiate with employers in respect of matters connected with the employment or non-employment or the terms of employment or the conditions of labour of all or any of its members, and the employer shall receive and send replies to letters sent by the executive on, and grant interviews to that body regarding, such matters.

(*2*) Nothing in sub-section (*1*) shall be construed as requiring an employer to send replies to letters on, or grant interviews regarding, matters on which, as a result of previous discussion with the executive of the trade union, the employer has arrived at a conclusion, whether in agreement with the executive or not, unless a period of at least three months in the case of an agreed conclusion or of one month in any other case has elapsed, since the said conclusion was intimated to the executive, or unless there has been a change in the circumstances.

(*3*) Any dispute between the employer and the executive of a recognised trade union as to whether a conclusion has been arrived at, or whether there has been a change in the circumstances, within the meaning of sub-section (*2*), may be referred to the Registrar whose decision shall be final.

(*4*) The executive of a recognised trade union or such officers thereof as may be authorised by rules made in this behalf by the appropriate Government shall, in such manner and subject to such conditions as may be prescribed, have a right, and shall be permitted by the employer concerned—

(*a*) to collect sums payable by members to the trade union on the premises where wages are paid to them;

(*b*) to put up, or cause to be put up, a notice board on the premises of the establishments in which its members are employed and affix or cause to be affixed, notices thereon;

(*c*) for the purpose of the prevention or settlement of any labour dispute,—

(*i*) to hold discussions on the premises of the establishment with the employees concerned who are members of the trade union;

(*ii*) to inspect, if necessary, in any establishment any place where any member of the trade union is employed.

36. *Withdrawal of recognition.*—(*1*) Where the recognition of a trade union has been directed under section 34, the Registrar or the employer may apply in writing to the Labour Court for withdrawal of the recognition on any of the following grounds, namely:—

(*a*) that the executive or a majority of the members of the trade union have committed any unfair practice set out in section 40 within three months prior to the date of the application;

(*b*) that the trade union has failed to submit any return referred to in section 38;

(*c*) that the trade union has ceased to be representative of the employees referred to in clause (*c*) of sub-section (*1*) of section 33;

(*d*) that the certificate of registration of the trade union has been suspended or cancelled by the Registrar under section 10.

(2) On receipt of an application under sub-section (1), the Labour Court shall, unless it thinks fit to dismiss the application summarily, serve notice in the prescribed manner on the trade union to show cause why its recognition should not be withdrawn.

(3) If after giving a reasonable opportunity to the trade union to show cause, the Labour Court is satisfied that the trade union is no longer fit to be recognised, it shall make an order declaring that the recognition of the trade union has been withdrawn, and forward a copy of the order to the appropriate Government who shall notify it in the Official Gazette.

37. *Application for fresh recognition.*—On the expiry of not less than three months from the date of withdrawal of recognition of a trade union under sub-section (3) of section 36, the trade union may again apply for recognition, and the procedure laid down in this Act shall apply in respect of such application as if it were an original application for recognition.

38. *Recognised trade unions to submit prescribed returns.*—Every trade union recognised under section 34, shall submit to the Registrar at the prescribed time and in the prescribed manner such returns, in addition to those referred to in section 30, as may be prescribed.

## CHAPTER V

### Unfair Practices

39. *Application of Chapter.*—The provisions of this Chapter shall not apply to a recognised trade union of civil servants.

40. *Unfair practices by recognised trade unions.*—The following shall be deemed to be unfair practices on the part of a recognised trade union, namely :—

(a) for a majority of the members of the trade union to take part in an irregular strike ;

(b) for the executive of the trade union to advise or actively to support or to instigate an irregular strike ;

(c) for an officer of the trade union to submit any return required by or under this Act containing false statements as to any material fact ;

(d) for the executive of the trade union to refuse to enter into negotiations with the employer as provided for in section 35 or in Chapter IV of the Labour Relations Act, 1950, or if the trade union is a certified bargaining agent, as defined in the Labour Relations Act, 1950, to refuse to bargain collectively with the employer as provided for in Chapter V of that Act.

41. *Unfair practices by employers.*—The following shall be deemed to be unfair practices on the part of an employer, namely :—

(a) to interfere with, restrain, or coerce his employees in the exercise of their rights to organise, form, join or assist a trade union and to engage in concerted activities for the purpose of mutual aid or protection ;

(*b*) to interfere with the formation or administration of any trade union;

(*c*) to discharge or otherwise discriminate against, any officer of a recognised trade union because of his being such officer;

(*d*) to discharge or otherwise discriminate against any employee because he has made allegations or given evidence in any inquiry or proceeding relating to any matter such as is referred to in sub-section (*1*) of section 35:

Provided that nothing in this clause shall apply to any such discharge or discrimination if the employer can prove that the allegation made or the evidence given by the employee was false, or that the employee knew or had reason to believe such allegation or evidence to be false;

(*e*) to fail to comply with the provisions of section 35;

(*f*) to declare an illegal lock-out;

(*g*) to refuse to enter into negotiations with his employees as provided for in section 35 or in Chapter IV of the Labour Relations Act, 1950, or, where there is a certified bargaining agent, to refuse to bargain collectively with such agent as provided for in Chapter V of that Act:

Provided that the refusal of an employer to permit his employees to engage in trade union activities during their hours of work shall not be deemed to be an unfair practice on his part.

## CHAPTER VI

### Penalties

42. *Penalty for failure to submit returns.*—If default is made on the part of any registered or recognised trade union in giving any notice or sending any statement, return or other document as required by or under any provision of this Act, every officer or other person bound by the rules of the trade union to give or send the same, or, if there is no such officer or person, every member of the executive of the trade union, shall be punishable with fine which may extend to five rupees and, in the case of a continuing default, with an additional fine which may extend to five rupees for each week after the first during which the default continues:

Provided that the aggregate fine shall not exceed fifty rupees.

43. *Penalty for false returns.*—Any person who wilfully makes, or causes to be made, any false entry in, or any omission from, the general statement required by section 30, or in or from any copy of rules or alterations of rules sent to the Registrar under that section or in or from any return referred to in section 33 shall be punishable with fine which may extend to five hundred rupees.

44. *Penalty for supplying false information regarding trade unions.*—Any person who with intent to deceive, gives to any member of a registered trade union or to any person intending or applying to become a member of such trade

union any document purporting to be a copy of the rules of the trade union or of any alterations to the same which he knows, or has reason to believe to be not a correct copy of such rules or alterations as are for the the time being in force, or any person who with the like intent gives a copy of any rules of an unregistered trade union to any person on the pretence that such rules are the rules of a registered trade union, shall be punishable with fine which may extend to two hundred rupees.

45. *Penalty for unfair practices.*—Any employer who commits any unfair practice set out in section 41 shall, on conviction, be punishable with fine which may extend to one thousand rupees, and shall, on any subsequent conviction, be punishable with fine which may extend to three thousand rupees, and the court trying the offence, if it fines the offender, may direct that the whole or any part of the fine realised from him shall be paid, by way of compensation, to any person who, in its opinion, has suffered loss or injury caused by such unfair practice.

## CHAPTER VII

### MISCELLANEOUS

46. *Power of the Labour Court in election petitions.*—(*1*) Where an election of the members of the executive or other officers of a trade union is held in contravention of the prescribed regulations or the rules of that trade union, the Registrar or any member of that trade union may file an application to the Labour Court for setting aside such election on the ground that there has been a contravention of such regulations or rules or that there has been an irregularity in, or in connection with, that election.

(*2*) The Labour Court shall, after giving all the parties interested in the application filed under sub-section (*1*) an opportunity of being heard, pass such orders as it may deem fit.

(*3*) Without prejudice to the generality of the foregoing power, the Labour Court may, if it finds that there has been a contravention of the prescribed regulations or the rules of the trade union or that an irregularity has occurred, pass an order setting aside an election and—

(*a*) directing that a fresh election be held in accordance with the prescribed regulations and the rules of the trade union, or

(*b*) directing another person to have been duly elected.

(*4*) The Labour Court shall not pass any order under sub-section (*3*) unless it is satisfied that, having regard to the contravention made, or the irregularities found and the other circumstances of the case, the result of the election has been affected by such contravention or irregularities.

47. *Cognizance of offences.*—(*1*) No court shall take cognizance of any offence punishable under this Act save on complaint made by or under the authority of the Inspector or, in the case of an offence under section 44, by the person to whom the copy was given, within six months of the date on which the offence is alleged to have been committed.

(2) No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence punishable under this Act.

48. *Power to give directions.*—The Central Government may give directions to a State Government as to the carrying into execution of the provisions of this Act.

49. *Act not to apply to Armed Forces, etc.*—Nothing in this Act shall apply to the members of the Armed Forces or the police forces.

50. *Power to make regulations.*—(1) The Central Government may, by notification in the Official Gazette, and subject to the condition of previous publication, make regulations for the purpose of carrying into effect the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—

(a) the manner in which trade unions may be registered and the fees payable on registration;

(b) the holding of election of members of the executive or other officers of the trade union and the manner in which petitions for setting aside elections may be made and disposed of; * * *

(c) admission of persons who, without being ordinary members, are entitled to be officers of a trade union;

(d) the transfer of registration in the case of any registered trade union which has changed its head office from one State to another;

(e) the manner in which, and the qualifications of persons by whom, the accounts of a registered trade union or of any class of such trade unions may be audited;

(f) the conditions subject to which inspection of documents kept by Registrars may be allowed and the fees which shall be chargeable in respect of such inspections;

(g) any other matter which has to be, or may be, prescribed.

51. *Power to make rules.*—(1) A State Government may, by notification in the Official Gazette, and subject to the condition of previous publication, make rules, not inconsistent with this Act and the regulations made thereunder, for the purpose of carrying into effect the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters specified in sub-section (2) of section 50.

(3) If any rule made under this section is repugnant to any regulations made under section 50, the regulation, whether made before or after the making of the rule, shall prevail and the rule to the extent of the repugnancy be inoperative.

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52. *Repeals and savings.*—(*1*) The Indian Trade Unions Act, 1926 (XVI of 1926), and the Indian Trade Unions (Amendment) Act, 1947 (XLV of 1947), which has not come into force, are hereby repealed.

(*2*) If, immediately before the commencement of this Act, there is in force in any of the Part B States any law corresponding to the Indian Trade Unions Act, 1926, such corresponding law is hereby repealed:

Provided that section 6 of the General Clauses Act, 1897 (X of 1897), shall apply to such repeal as if the corresponding law had been an enactment.

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The following Bills were introduced in Parliament on the 11th December, 1950:—

## BILL No. 101 OF 1950

*A Bill to make temporary provisions for the payment of moneys in the State Railway Provident Fund to dependants of deceased displaced persons.*

BE it enacted by Parliament as follows:—

1. *Short title, extent and duration.*—(*1*) This Act may be called the State Railway Provident Fund (Temporary Provisions) Act, 1950.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) It shall cease to have effect on the 31st day of December, 1952, save as respects things done or omitted to be done before that date.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(*a*) "Accounts Officer" means the Financial Adviser and Chief Accounts Officer of a railway administration and includes such other officer as may be appointed in this behalf by the Financial Commissioner, Railways;

(*b*) "dependant" means any of the following relatives of a deceased subscriber to, or a depositor in, the State Railway Provident Fund who was a displaced person, namely:—

wife, husband, child and a deceased son's widow and child;

(*c*) "displaced person" means a person employed under the North-Western railway administration or the Bengal and Assam railway administration before the 15th day of August, 1947, who, on account of the setting up of the Dominions of India and Pakistan or on account of civil disturbances or the fear of such disturbances in any area now forming part of Pakistan,—

(*i*) was displaced from, or left his place of residence in, such area after the 1st day of March, 1947, or

(*ii*) opted for employment in any area now forming part of India, or

(*iii*) did not opt for employment in any area now forming part of Pakistan;

(*d*) "State Railway Provident Fund" means the Provident Fund as constituted under the State Railway Provident Fund Rules.

3. *Application of the Provident Funds Act, 1925.*—The provisions of this Act shall have effect notwithstanding any provisions inconsistent therewith contained in the Provident Funds Act, 1925 (XIX of 1925), but shall not be in derogation of any of the other provisions of that Act.

4. *Repayment of State Railway Provident Fund moneys in certain cases.*—(*1*) Where, in the case of any deceased displaced person, the Accounts Officer is satisfied, after such inquiry as may be prescribed, that any nomination made by the deceased displaced person in respect of any sum standing to his credit in the State Railway Provident Fund has been lost or is not readily available and that the terms of that nomination cannot be proved otherwise, he shall pay the sum so standing to his credit to his dependants in equal shares :

Provided that no share shall be payable to—

(*a*) sons or sons of a deceased son who have attained majority,

(*b*) married daughters whose husbands are alive, and

(*c*) married daughters of a deceased son whose husbands are alive,

if there are any other dependants, and the share which a dependant would otherwise have taken if not disqualified under this proviso shall be divided among the other dependants in equal shares :

Provided further that the widow and the children of a deceased son shall take between them in equal parts the share which that son would have taken, if he had survived the subscriber and had not attained majority at the time of the subscriber's death.

(*2*) If there are no dependants, any such sum as is specified in sub-section (*1*) shall be payable,—

(*a*) if the sum does not exceed five thousand rupees, to any person appearing to the Accounts Officer, after such inquiry as may be prescribed, to be entitled to receive it ;

(*b*) if the sum exceeds five thousand rupees, to any person on production by such person of probate or letters of administration or succession certificate entitling him to receive payment of such sum.

5. *Discharge on payment.*—The making of a payment authorised by the provisions of this Act shall be a full discharge to the Central Government and to the railway administration concerned from all liability in respect of the sum so paid :

Provided that nothing contained in this Act shall prevent any person claiming under a nomination or declaration made by a deceased displaced person from establishing in a court the right which he claims and following the money into the hands of the persons who have received payment thereof under the provisions of this Act.

6. *Penalty for false statements.*—Any person who, for the purpose of obtaining any payment under the provisions of this Act, makes a declaration or statement which is false or which he either knows or has reason to believe to be false or does not believe to be true shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

7. *Bar of jurisdiction.*—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under the provisions of this Act.

8. *Power to make rules.*—The Central Government may make rules to carry out the purposes of this Act, and, in particular, for—

(*i*) regulating the manner in which any inquiry may be made by the Accounts Officer;

(*ii*) requiring security to be furnished by any person before payment of any sum is made to him under the provisions of this Act.

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## STATEMENT OF OBJECTS AND REASONS

Under section 5 of the Provident Funds Act, 1925, the provident fund accumulations of a subscriber in the event of his death, become payable to the person nominated by him. In case no nomination exists, the rules of the State Railway Provident Fund provide for the payment of the accumulations to the members of the subscriber's 'family' in equal shares.

2. Owing to civil disturbances that preceded and followed the partition of the country, the records relating to the State Railway Provident Fund of the India-opting and evacuee Railway staff were left in Pakistan. It was hoped that in implementation of decisions reached in the inter-Dominion conference held in December 1948 on the subject, the records would be transferred at an early date, but the arrangements so far made have not yielded very satisfactory results. Consequently, it has not yet been possible to settle the accounts of those deceased subscribers whose records have not been received from Pakistan. At present there seems little likelihood of all such records being received from Pakistan in the near future and any further postponement in the payment of provident fund accumulations is bound to accentuate hardship to the dependants of the deceased. It is now proposed to relax the provisions of section 5 of the Provident Funds Act, so as to authorise the railway administrations to make payments to the dependants of the deceased employees in whose case nomination papers have not been received from Pakistan.

3. The proposed Bill which purports to achieve the above end is a temporary expedient and will be in force only up to 31st December, 1952 by which date, it is hoped to settle the provident fund accounts of all the subscribers concerned.

N. GOPALASWAMI

NEW DELHI;
*The 30th November*, 1950

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BILL NO. 99 OF 1950

*A Bill to provide, in pursuance of a resolution under article 249 of the Constitution, for the control of prices of certain goods, and the supply and distribution thereof.*

BE it enacted by Parliament as follows :—

1. *Short title and extent.*—(*1*) This Act may be called the Supply and Prices of Goods Act, 1950.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

2. *Definitions.*—(*1*) In this Act, unless the context otherwise requires,—

(*a*) "dealer" means a person carrying on the business of selling any goods, whether wholesale or retail;

(*b*) "goods" means goods to which this Act applies;

(*c*) "notified order" means an order notified in the Official Gazette;

(*d*) "offer for sale" includes an intimation by a person of the price proposed by him for a sale of any goods made by the publication of a price list, by exposing his goods for sale in association with a mark indicating price, by the furnishing of a quotation or otherwise howsoever;

(*e*) "prescribed" means prescribed by rules made under this Act;

(*f*) "producer" includes a manufacturer;

(*2*) A person shall be deemed to be in possession of goods—

(*i*) when they are held on behalf of that person by another person;

(*ii*) notwithstanding that they are mortgaged to another person.

3. *Goods to which this Act applies.*—Subject to the other provisions contained herein, this Act applies to the goods specified in the Schedule and to such other goods as the Central Government may, by notified order, specify in this behalf.

4. *Fixing of maximum prices and maximum quantities which may be held or sold.*—(*1*) The Central Government may, by notified order, fix in respect of any goods—

(*a*) the maximum price or rate which may be charged by a dealer or producer;

(*b*) the maximum quantity which may at any one time be possessed by a dealer or producer;

(*c*) the maximum quantity which may in one transaction be sold to any person.

(*2*) Any such order may—

(*a*) fix maximum prices or rates and maximum quantities for the same description of goods differently in different localities or for different classes of dealers or producers;

(*b*) instead of specifying the maximum price or rate to be charged, direct that that price or rate shall be computed in such manner and by reference to such matters as may be provided by the order.

5. *Restrictions on possession and sale by dealers and producers where maximum is fixed under section 4.*—(*1*) No dealer or producer shall—

(*a*) sell or agree to sell or offer for sale to any person any goods for a price or at a rate exceeding the maximum fixed under clause (*a*) of sub-section (*1*) of section 4;

(*b*) have in his possession at any one time a quantity of any goods exceeding the maximum fixed under clause (*b*) of sub-section (*1*) of section 4, unless he has reported the fact of such possession to the Central Government or to the officer appointed in that behalf as required by section 7; or

(*c*) sell or agree to sell or offer for sale to any person in any one transaction a quantity of any goods exceeding the maximum fixed under clause (*c*) of sub-section (*1*) of section 4.

(*2*) Where any goods are sold, agreed to be sold or offered for sale in cotravention of sub-section (*1*) by a dealer or producer through any person employed by him or acting on his behalf, such person and also, unless he proves that he exercised due diligence to prevent such contravention, the dealer or producer, as the case may be, shall be liable to the punishment provided by sub-section (*1*) of section 14.

(*3*) Where a dealer or producer disposes of any goods by having them sold by auction on his behalf, the auctioneer, as well as the dealer or producer, shall be liable to the punishment provided by sub-section (*1*) of section 14, if in any such sale there is a contravention of clause (*c*) of sub-section (*1*).

6. *General limitation of quantity which may be possessed at any one time.*—(*1*) No person shall have in his possession at any one time a greater quantity of any goods to which this section applies than the quantity necessary for the reasonable needs of himself and his family for the prescribed period, unless he has reported the fact of such possession to the Central Government or to the officer appointed in that behalf as required by section 7:

Provided that nothing contained in this sub-section shall apply—

(*a*) to a dealer in respect of any goods sold or purchased by him in the course of his business, or

(*b*) to a producer in respect of any goods produced by him.

(*2*) For the purposes of this section, the Central Government may prescribe the circumstances and matters which shall be taken into account in determining the reasonable needs of any person, and may prescribe different periods for different areas or for different classes of goods.

(*3*) Notwithstanding anything contained in section 3, this section shall apply only to such goods as the Central Government may, by notified order, specify in this behalf.

7. *Duty to declare possession of excess stocks.*—Any person having in his possession a quantity of any goods exceeding that permitted by or under this Act shall forthwith report the fact to the Central Government or to

any officer appointed by it in this behalf and shall take such action as to the storage, distribution or disposal of the excess quantity as may be prescribed or as the Central Government or such officer may direct.

8. *Holding of stocks.*—(*1*) If any dealer has in his possession in the course of his business a stock of any goods and the said dealer or any person employed by him to sell goods in the course of his business, when asked by any other person (hereafter in this section referred to as "the buyer") to sell goods of that description or whether he or his employer has such goods for sale—

(*i*) refuses to sell the goods, or denies that he or his employer has the goods, or by words or conduct intentionally causes the buyer to believe that he or his employer has not got the goods or will not or cannot sell them, or

(*ii*) offers to sell the goods subject to a condition requiring the buying of any other goods or subject to any other condition except the condition that the buyer shall pay the price forthwith or take delivery within a reasonable time,

the dealer carrying on the business shall be guilty of an offence under this Act.

(*2*) It shall be a defence for a person charged with any such offence to prove that the sale of the goods or the sale thereof without the fulfilment of the condition proposed by him, would, having regard to the quantity of goods which he or that person was requested to sell or any other consideration—

(*a*) be contrary to the normal practice of his business; or

(*b*) involve a breach of some obligation lawfully binding on him; or

(*c*) interfere with arrangements made by him for an orderly disposal of his stock among his regular customers.

9. *Cash memorandum to be given of certain sales.*—(*1*) Every dealer or producer, when selling goods for cash shall, if the amount of the purchase is rupees ten or more, in all cases, and if the amount of the purchase is less than rupees ten, when so required by the purchaser, give to the purchaser a cash memorandum containing particulars of the transaction.

(*2*) The Central Government may prescribe the particulars to be contained in any such cash memorandum.

(*3*) Notwithstanding anything contained in section 3, this section shall apply to all goods, whether they are goods to which this Act applies within the meaning of that section or not, but the Central Government may, by notified order, exempt specified areas, classes of dealers or producers or classes of goods from the operation of this section.

10. *Marking of prices and exhibiting price lists and stocks.*—(*1*) The Central Government may direct dealers or producers in general, or any dealer or producer or class of dealers or producers in particular, to mark goods exposed or intended for sale with the sale prices or to exhibit at some easily accessible place on the premises price lists of goods held for sale and also to similarly exhibit on the first day of every month, or at such other intervals as may be prescribed, a statement of the total quantities of any such goods held in stock, and may further give directions as to the manner in which any such direction as aforesaid is to be carried out.

(*2*) No dealer shall destroy or efface, or alter or cause to be destroyed, effaced or altered, any label or mark affixed—

(*a*) to any goods in pursuance of a direction under sub-section (*1*) or

(*b*) to any goods and indicating the price marked by a producer.

(*3*) Notwithstanding anything contained in section 3, the Central Government may, by notified order, declare that the provisions of this section shall also apply to any goods other than those to which this Act applies within the meaning of that section.

11. *Obligation to state prices separately on composite offer.*—Where a dealer or producer makes an offer to enter into a transaction for a consideration to be given as a whole in respect of both of a sale of any goods and of some other matter, the dealer or producer making the offer shall state in writing the price which he assigns to the goods, if he is required so to do by any person to whom the offer is made, and the offer shall be deemed for the purposes of this Act to be offered to sell the goods at the price so stated.

12. *Prohibition of closure of shops.*—No dealer in any goods shall keep his shop closed with the intention of avoiding the regular sale of such goods and thereby obtaining a higher price for the goods at a later date.

13. *Power to regulate production and distribution of goods.*—The Central Government may, by general or special order,—

(*a*) prohibit the disposal of any goods except in such circumstances and under such conditions as may be specified in the order;

(*b*) direct the sale of the whole or a specified part of the stock of any goods at such prices and to such persons or class of persons or in such circumstances as may be specified in the order;

(*c*) regulate by licences, permits or otherwise the production, supply, storage, transport, distribution, use or consumption of any goods.

14. *Penalties.*—(*1*) Any person who contravenes any of the provisions of this Act, or of any orders or rules made thereunder, shall, if no other punishment is specified therefor in this Act, be punishable with imprisonment for a term which may extend to three years, or with fine, or with both:

Provided that where the person is guilty of an offence under section 8, the court shall sentence him to imprisonment for a term which may extend to three years, and may in addition impose a sentence of fine.

(*2*) Any person who fails to comply with any directions made under authority conferred by this Act shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(3) A court convicting any person of an offence punishable under this Act may order that the goods in respect of which the offence has been committed or specified part thereof shall be forfeited to the Government.

15. *Offences by Corporations.*—(1) Where any person, contravening any of the provisions of this Act or of any order or direction made thereunder is a company or other body corporate, every person, who, during the relevant period, was in charge of, and was responsible to the company or other body corporate during that period for the conduct of the business of the establishment in or in relation to which the contravention has taken place, as well as the company or other body corporate, shall be deemed to be guilty of such contravention and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any person so in charge or responsible liable to any punishment provided in this Act, if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act or any order or direction made thereunder has been committed by a company or other body corporate and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company or other body corporate, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

16. *Powers of search and seizure.*—(1) For the purpose of enforcing the provisions of this Act, the Central Government may, by general or special order, authorise any officer not below the rank of an inspector of police—

(a) to enter and search any premises, vehicles, vessels or aircraft occupied for the purpose of the business in any goods or where any such goods may be found ;

(b) to seize any goods in respect of which he has reason to believe that an offence under this Act has been committed and thereafter to take all such measures as may be necessary for securing the production of such goods in court.

(2) If any person obstructs an officer in the exercise of the powers conferred upon him by this section he shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

17. *Procedure.*—No offence punishable under this Act shall be inquired into by any person below the rank of an inspector of police and no prosecution for any such offence shall be instituted except with the previous sanction of the Central Government or of an officer not below the rank of a district magistrate empowered by the Central Government to grant such sanction.

18. *Summary trials.*—(1) Notwithstanding anything contained in section 260 of the Code of Criminal Procedure, 1898 (Act V of 1898), a magistrate empowered to act under that section may try any offence punishable under this Act in a summary way under the provisions of Chapter XXII of the said Code, and shall so try any such offence unless he is of opinion

that in the event of the offence being proved a sentence which he is empowered under that Chapter to impose would be insufficient.

(2) Notwithstanding anything contained in section 362 of the said Code a presidency magistrate trying an offence punishable under this Act shall not record the evidence or frame a charge unless he is of opinion that in the event of the offence being proved a sentence against which, in accordance with the provisions of sections 404 and 411 of the said Code no appeal lies, would be insufficient :

Provided that, where at any subsequent stage of a trial commenced in accordance with this sub-section, it appears to the presidency magistrate that in the event of the offence being proved such sentence as aforesaid would be insufficient; he shall recall any witnesses who may have been examined and proceed to re-hear the case in the manner provided in the said section 362 for a case in which an appeal lies.

(3) Notwithstanding anything contained in section 526 of the said Code, no decision of a court to try any offence punishable under this Act otherwise than in the summary manner provided by this section shall be a valid ground on which to make an application under that section.

19. *Accounts and information.*—(1) The Central Government may direct any dealer or producer to keep such books, accounts and other records in relation to all sale and purchase transactions entered into by him as it thinks necessary.

(2) The Central Government may direct a dealer or producer—

(*a*) to produce to, and allow to be examined by, a person specified in this behalf such books, accounts or other documents in the custody or under the control of the person so required as may be specified or described in the direction being documents relating to the transactions or business the examination of which may be required for the purpose of this Act ; and

(*b*) to furnish to a person so specified such information as respects the transaction or business as may be required for the purposes of this Act or such other information as may be in his possession in relation to the business carried on by another person.

(3) The Central Government may by notified order, issue to all dealers and producers of a specified class a direction such as is referred to in sub-section (1) or in clause (*a*) of sub-section (2).

20. *Restriction on disclosure of information.*—(1) No information with respect to any particular business which has been obtained under this Act shall, without the consent of the person carrying on that business, be disclosed otherwise than in connection with the execution of this Act :

Provided that nothing in this section shall apply to a disclosure of information made for the purpose of any criminal proceedings which may be taken whether by virtue of this Act or otherwise, or for the purposes of any other law for the time being in force.

(2) If any person discloses any information in contravention of the provisions of this section he shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

21. *Power to exempt.*—The Central Government may by notified order, exempt any person or any goods or class of goods from all or any of the provisions of this Act or of any order made thereunder.

22. *Delegation of powers.*—(*1*) The Central Government may, by notified order, direct that any power exercisable by it under this Act (except the power given to it under section 3) shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also by such officer or authority subordinate to the Central Government or by such State Government as may be specified in the direction.

(*2*) Any power exercisable by a State Government by virtue of a direction under sub-section (*1*) may, unless otherwise provided in such direction, be exercised also by such officer or authority subordinate to that State Government as it may, by notified order, specify in this behalf.

23. *Power to issue directions to State Governments.*—The Central Government may give directions to any State Government as to the carrying into execution in the State of any of the provisions of this Act or of any order or direction made thereunder.

24. *Bar of legal proceedings.*—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

25. *Saving of other laws.*—The provisions of the Act shall be in addition to, and not in derogation of, any other law for the time being in force regulating the keeping, searching, distribution, disposal or price of goods.

26. *Power to make rules.*—(*1*) The Central Government may, by notification in the Official Gazette, make rules for the purpose of carrying out the objects of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) the matters referred to in sub-section (*2*) of section 6;

(*b*) the particulars to be contained in any cash memorandum under section 9;

(*c*) the manner in which prices may be marked on goods and price lists exhibited;

(*d*) the issue of licences under section 13, and the attachment of any coditions thereto and the levying of a fee therefor;

(*e*) any other matter which is to be or may be prescribed.

27. *Repeal of Ordinance XXVI of 1950.*—(*1*) The Supply and Prices of Goods Ordinance, 1950 (XXVI of 1950) is hereby repealed.

(*2*) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action was taken.

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## THE SCHEDULE

(*See* section 3)

GOODS TO WHICH THIS ACT APPLIES

1. Non-ferrous metals, including brass (unwrought and semi-manufac-ıred).
2. Bicycles, bicycle parts and accessories.
3. Cycle tyres and tubes.
4. Electric bulbs.
5. Caustic soda.
6. Soda ash.
7. Tanning materials (wattle bark, wattle extract, quebracho)
8. Raw rubber.
9. Casein.
10. Infants' foods (Glaxo, Horlicks, Cow and Gate Milk and Ostermilk).

## STATEMENT OF OBJECTS AND REASONS

The Supply and Prices of Goods Ordinance, 1950 (XXVI of 1950), was romulgated on the 2nd September, 1950, to provide, in pursuance of a resolu-on under article 249 of the Constitution, for the control of prices of certain oods, and the supply and distribution thereof. The necessity for control nd distribution of goods still continues. This Bill incorporates the provi-ons of the Ordinance with slight modifications, and is intended to replace

HARE KRUSHNA MAHTAB.

NEW DELHI;
*he* 1*st December* 1950.

## PARLIAMENT OF INDIA

The following Bills were introduced in Parliament on the 12th Decem-er, 1950:—

[BILL No. 78 OF 1950]

*A Bill to provide for the protection of certain Hindu religious institutions known as Mutts.*

BE it enacted by Parliament as follows:—

### CHAPTER I

1. *Short title and extent.*—(*1*) This Act may be called the Hindu Mutts ct, 19 .

(*2*) This Act shall apply to all Hindu religious institutions which are, or ll within the definition of, Mutts, as defined in this Act.

(3) The Central Government or the Government of any State with the previous approval of the Central Government may by notification in the Official Gazette, by name, extend the provisions of this Act, to or exclude from the provisions of this Act, any Mutt or other institution liable to be regarded as a Mutt.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) "Government" means, the Government of India;

(b) "State Government" means, the Government of a State;

(c) "Mutt" means a Hindu religious institution established or maintained for the preservation and promotion of the tenets or traditions of any Hindu religious denomination or any section thereof and presided over by the Head of the Mutt;

(d) "Head of a Mutt" means a person who presides over the Mutt and occupies the position of a *GURU* to a body of disciples;

(e) "Endowments of a Mutt" means a property given or endowed by the donors for a specific religious purpose connected with the Mutt.

*Explanation I.*—Property in the possession of a Mutt which has been earmarked or whose income has been continuously spent for a specific religious purpose connected with the Mutt for more than twenty years shall be presumed to be a part of the Endowments of a Mutt.

*Explanation II.*—All immoveable properties which have come into possession of the Head of a Mutt on the date of his succession to the Mutt shall be presumed to be the Endowments of the Mutt.

*Explanation III.*—All properties whether moveable or immoveable, belonging to or endowed for a temple attached to a Mutt shall not be deemed to be part of the Endowments of a Mutt.

*Explanation IV.*—All properties whether moveable or immoveable acquired by the Head of a Mutt during his period, including *Pada Kanikas* or other property gifted to the Head of a Mutt without any specific trust attached to them and all income of whatever kind derived from the properties vested in, or in the possession of a Mutt, not being endowments of a temple attached to the Mutt, shall not be treated as Endowments of the Mutt.

(f) "Prescribed" means prescribed by Rules made by the Government under this Act.

## CHAPTER II

### Endowment of the Mutt

3. *Appointment of an agent by the Head of a Mutt.*—The Head of a Mutt shall by Power of Attorney appoint an Agent for the purpose of managing the Endowments of a Mutt. Such Agent shall be deemed to represent the Mutt for all purposes of the secular affairs of the Mutt.

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4. *Procedure against the mismanagement of the Endowments of a Mutt and duties of the Head of a Mutt.*—(*1*) Any twenty or more persons having interest in the Mutt may apply by petition to the Court alleging that the Endowments of a Mutt are being mismanaged or their income spent for improper purposes, and if the Court on enquiry is satisfied that the Endowments of the Mutt are mismanaged, the Court may by an order settle a scheme of administration for the Endowments of the Mutt.

(*2*) In settling such a scheme, the court may associate any person or persons having interest in the Mutt with the Agent appointed by the Head of the Mutt for purposes of managing the Endowments of the Mutt, and prescribe other regulations for the proper administration of the endowments.

(*3*) No scheme settled under this section shall,—

(*i*) restrict in any manner the power of the Head of the Mutt to appoint the Agent for managing the Endowments of the Mutt; or

(*ii*) restrict or interfere with the power of the Head of the Mutt regarding management and the disposal of the income of the properties of the Mutt, other than the Endowments of the Mutt.

5. *Maintenance of a Register by the Agent.*—The agent of a Mutt shall maintain a register showing,—

(*a*) the name of past and present Heads of the Mutt, and particulars as to the custom or usage, if any, regarding succession to the office of the Head of the Mutt;

(*b*) the particulars of all properties belonging or appertaining or annexed to the Mutt and the title deeds, if any, relating thereto; and

(*c*) such other particulars as may be prescribed.

## CHAPTER III

### MISCELLANEOUS

6. *Application of the funds or property of the Mutt.*—The Head of a Mutt, and every Manager, Agent, or other person managing or administering the affairs and property connected with a Mutt, shall be bound to apply the funds or properties of the Mutt in accordance with the usage of the Mutt or temple and the endowments or the income therefrom shall not be applied or used for objects or purposes inconsistent with or foreign to the objects or purposes for which the Mutt concerned was founded or established.

7. *Procedure for, exchange, gift, sale, mortgage and lease, of the immoveable property.*—Any exchange, gift, sale or mortgage and any lease for a term exceeding five years, of any immoveable properties being part of the Endowments of a Mutt shall be void unless the same is sanctioned by the court as being necessary or beneficial to the Mutt.

8. *Payment of costs incidental to any suit or legal proceeding.*—All costs and expenses of and incidental to any suit or legal proceeding under this Act shall be payable out of the funds of the temple or a Mutt unless court orders for reasons to be recorded.

9. *Saving of established customs and usages.*—Nothing in this Act contained shall affect any established usuage of a Mutt or the rights, honours, emoluments and perquisites to which any person may by custom or otherwise be entitled in such a Mutt.

10. *Right to establish and maintain Mutts and management of their affairs.*—Nothing in this Act shall affect the right of any Hindu religious denomination or any section thereof to establish and maintain their own Mutts or like institutions for religious and charitable purposes or affect their right to manage the affairs of such institutions in matters of religion in accordance with their own desires and arrangements.

11. *Procedure for removal of the Head of a Mutt and appointment of another head.*—(*1*) Any twenty or more persons having interest and having obtained the consent in writing of the Advocate-General of the State in which the spiritual head of a Mutt is situated may institute a suit in the court to obtain a decree for removing the Head of a Mutt for any one or more of the following reasons, *viz.*,—

(*a*) for being of unsound mind;

(*b*) for suffering from any physical or mental defect or infirmity rendering him unfit to be the Head of a Mutt;

(*c*) for having ceased to profess the Hindu religion;

(*d*) for being convicted for any offence involving moral turpitude; and

(*e*) for the gross mismanagement of the Mutt and breach of any trust created in any respect of property of the institution.

(*2*) The Court in deciding such a suit may give directions for the appointment of a new Head of the Mutt having due regard to the usages of the Mutt.

12. *Power to make rules.*—The Government may make Rules for the purposes expressly allowed under this Act and generally for carrying out the purpose of this Act.

13. *Repeals.*—On the coming into force of this Act, all provisions of any State law or of any scheme settled by any authority or order or notification, which are repugnant to the provisions of this Act, shall to the extent of the repugnancy be inoperative and of no effect.

14. *Audit of the Accounts of Mutt.*—(*1*) The accounts of every Mutt shall be audited annually by a registered accountant and auditor.

(*2*) The auditor shall make a report in such form as may be prescribed, specifying in such report all cases of irregular, illegal, or improper expenditure, or failure to recover moneys or other properties due to or belonging to the institution and all cases of breach of trust and acts of misfeasance or malfeasance. The auditor shall also verify the assets and endowments with the relative registers and append a certificate to his report recording such verification.

(*3*) The auditor's report shall be published in such manner as may be prescribed.

15. *Procedure for modification of scheme already in force.*—If there is a scheme of administration already in force in respect of a Mutt framed by a competitive authority, the Head of the Mutt or any twenty persons having interest may apply to the court for modifying the provisions of such scheme so as to bring it into conformity with this Act.

## STATEMENT OF OBJECTS AND REASONS

The Constitution has included religious endowments and religious institutions in the concurrent list, evidently in the view that on fit occasions, Union legislation on these subjects will be necessary or appropriate.

There are numerous institutions, known as Mutts or by similar names, which have been established and maintained for preserving and promoting the tenets and traditions of particular Hindu Religious denominations. The Heads of these institutions are held in special reverence by their followers, and many of them have disciples living in several States. These institutions fall within the language and intent of Article 26 of the Constitution by which they have been given special rights regarding the management of their internal affairs. Many of these institutions have properties in more than one State. It is necessary and appropriate that these institutions are brought under a special Union legislation providing for their proper governance. Hence, this Bill is proposed to be introduced in Parliament.

M. ANANTHASAYANAM AYYANGAR.

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BILL NO. 65 OF 1950

*A Bill further to amend the Indian Bar Councils Act, 1926.*

BE it enacted by Parliament as follows :—

1. *Short title and commencement.*—(*1*) This Act may be called the Indian Bar Councils (Amendment) Act 19 .

(*2*) It shall come into force at once.

2. *Definition.*—In this Act, unless there is anything repugnant in the subject or context, the expression "the Act" means the Indian Bar Councils Act, 1926.

3. *Amendment of section 4 of the Act.*—(*1*) Sub-section (*3*) of section 4 of the Act shall be omitted.

(*2*) The proviso to sub-section (*4*) of section 4 of the Act shall be omitted.

4. *Amendment of section 6 of the Act.*—For the words and figures "sub-sections (*2*) and (*3*)" occurring in clause (*a*) of sub-section (*1*) of section 6 of the Act the words and figures "sub-section (*2*)", shall be substituted.

5. *Amendment of section 8 of the Act.*—(*1*) After the proviso to clause (*b*) of sub-section (*2*) of section 8 of the Act the following clause shall be added, namely :—

"(*c*) Attorneys of the High Courts of Judicature at Fort William in Bengal, Bombay and Madras :

Provided that such Attorneys shall have paid the prescribed fee payable to the Bar Council".

(*2*) After the proviso to clause (*b*) of sub-section (*3*) of section 8 of the Act the following second proviso shall be added, namely :—

"Provided further that the seniority of any person admitted to be an Advocate of the High Court after the commencement of this Act, shall be determined by the date of his admission".

(*3*) In the proviso to sub-section (*4*) of section 8 of the Act, the words and figures "and King's Council shall have pre-audience over all Advocates except the Advocate-General" shall be omitted.

6. *Amendment of section 9 of the Act.*—Sub-section (*4*) of section 9 of the Act shall be omitted.

7. *Amendment of section 14 of the Act.*—(*1*) In clause (*a*) of sub-section (*1*) of section 14 of the Act, the words and figures "Subject to the provisions of sub section (*4*) of section 9", shall be omitted.

(*2*) Sub-section (*3*) of section 14 of the Act shall be omitted.

## STATEMENT OF OBJECTS AND REASONS

The Bill seeks to amend the Indian Bar Councils Act, 1926 (Act XXXVIII of 1926), for reasons *inter alia* as follows :—

The legal profession is under the existing Indian Law divided into numerous classes with varying qualifications and rights of practice. The establishment of a homogeneous Bar in India with uniform rights of practice in all Courts has been the consistent demand of legal practitioners in India except the members of the English Bar and the Attorneys who all together form an insignificant minority. One of the objects of the Indian Bar Councils Act, 1926, was to establish a homogeneous Bar in the first instance in each High Court in India. But the objective failed in so far as the High Courts at Calcutta and Bombay were concerned due to the provisions in the Act as amended by the Indian Bar Councils (Amendment) Act, 1927 (Act XIII of 1927), safeguarding the privileges of the Barristers as defined in section 3(4) of the General Clauses Act, 1897 (Act X of 1897), and the Attorneys in these Courts and the English Bar has so far been maintained in High Courts in a position superior to that of the Indian Bar.

It is highly undesirable that in independent India, the members of the national Bar should be kept down in a position inferior to that of the English Bar, or that the demand for a homogeneous national Bar with uniform rights of practice should further be denied. The Bill seeks to establish a homogeneous Bar with uniform rights of practice in each of the High Courts in the first

instance, which will give immediate relief to the litigating public there and improve the administration of Justice. As a logical sequence, it further seeks to abolish the existing preferential treatment of Barristers in respect of seniority as well as the Bar Councils of the High Courts, and to render the office of the Chairman of the Bar Council into an elective one. It is to be noted that in the High Court at Calcutta, the office of the Advocate-General, like the office of the permanent Chief Justice, has never been filled by a member of the Indian Bar.

SARDAR HUKAM SINGH.

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## BILL NO. 90 OF 1950

*A Bill to enforce monogamy and to prohibit and penalise future bigamous marriages and to declare them illegal.*

BE it enacted by Parliament as follows :—

1. *Short title, extent and commencement.*—(*1*) This Act shall be called the Monogamy Enforcement Act, 195 .

(*2*) It extends to the whole of India except the State of Jammu and Kashmir. [120]

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette appoint in this behalf.

2. *Definition.*—In this Act, unless there is anything repugnant in the subject or context, "Bigamous marriage" means the marriage of any person during the life time of the spouse of a former subsisting marriage.

*Explanation.*—Every marriage shall be presumed to be a subsisting marriage unless it is proved to have been dissolved or avoided according to the personal law to which the parties are subject.

3. *Prohibition and illegality of future bigamous marriages.*—(*1*) Notwithstanding anything contained in, any law for the time being in force no person shall contract a bigamous marriage.

(*2*) Bigamous marriages entered into after the commencement of this Act shall be void and illegal.

4. *Penalty for bigamous marriages and abetment thereof.*—(*1*) Notwithstanding anything contained in this Act any person contracting a bigamous marriage within the terms of section 494 of the Indian Penal Code (XLV of 1860) shall be punished as provided in the said section of that Act.

(*2*) Whoever performs, conducts, arranges or otherwise abets any marriage which he knows or has reasons to believe to be bigamous shall be punished with imprisonment of either description which may extend to one year or fine which may extend to one thousand rupees or with both.

5. *Civil consequences of bigamous marriages.*—No civil rights or obligations of husband and wife shall accrue to parties to bigamous marriages and the issues of such marriages shall be illegitimate :

Provided that issues of such marriages shall not be illegitimate if such issues are conceived or born during wedlock in cases when marriage is contracted between persons whose spouse has been continually absent from such person or persons for a period of seven years and shall not have been heard of by such person or persons as being alive within that time.

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## STATEMENT OF OBJECTS AND REASONS

This Bill is designed to instal monogamy in the social life of the nation.

In this country monogamy has been practised on a very large scale though bigamous marriages are not prohibited. The Hindu and Muslim social codes of conduct while looking down at non-monogamous marriages have not held them to be unlawful or illegal. But now as the society has progressed and its social conscience has been aroused, the enlightened public opinion is insistent that bigamous marriages should be abolished and interdicted by law.

For the present needs of our society bigamy is not only unnecessary but positively unsuited, harmful and destructive.

The present state of society and the need of rehabilitating social relationships especially marriage shattered by the displacement of population as a result of partition has accentuated the problem beyond measure and the present Bill is sure to prove a remedy for a wholesome change in the situation.

THAKUR DAS BHARGAVA.

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## NOTES ON CLAUSES

1. Clause 1 deals with title, extent and date of commencement.
2. Clause 2 defines bigamous marriages.
3. Clause 3 declares such marriages void and illegal and prohibits them for the future.
4. Clause 4 adopts the qualified provisions of section 494 of the Indian Penal Code for penalising such marriages and seeks to penalise abetment also.
5. Clause 5 declares the civil consequences of such marriages but legitimises the progeny of bigamous marriages conceived or born during wedlock in cases of presumed death of spouse.

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## BILL No. 70 OF 1950

*A Bill to provide for punishment of those found guilty of adulteration of foodstuffs.*

BE it enacted by Parliament as follows :—

1. *Short title, extent and commencement.*—(*1*) This Act may be called the Punishment for Adulteration of Foodstuffs Act, 19

(*2*) It extends to the whole of India.

(*3*) It shall come into force at once.

2. *Definition.*—"Foodstuffs" for the purpose of this Act shall mean and include all kinds of grains, pulses, wheat flour, maida, gur, sugar; oil, milk, ghee and other milk products; tinned food, preserves, pickles, and prepared food including sweets, savouries and other ready-made food cooked and served in hotels, restaurants, refreshment rooms and other such public eating houses.

3. *Punishment for Adulteration of Foodstuffs.*—(*1*) Any person, whether producer, preparer, dealer, server or seller of any foodstuffs found guilty of adulteration, so as to deteriorate the quality of article concerned, or passing of any inferior article for superior one of the same category or selling under false name or description any article of foodstuffs shall be prosecuted and if found guilty shall be punishable with imprisonment of either description for a period not exceeding two years or with fine not exceeding ten times the value of the adulterated article transacted in or rupees five thousand, whichever amount is higher or with both imprisonment and fine.

(*2*) No prosecution under this Act shall be commenced except by an officer appointed especially in that behalf and subject to the sanction of the Government of the Province or Acceding State concerned.

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## STATEMENT OF OBJECTS AND REASONS

The evil of adulteration, especially with regard to foodstuffs and all eatable materials has become so rampant that it is practically impossible with regard to certain materials to get pure things which are so essential for the health of the people. The result is that people become victims of all sorts of diseases because of adulterated and impure food. It has, therefore, become necessary to provide for deterrent punishment for persons found guilty of offences of such acts.

B. P. JHUNJHUNWALA.

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## BILL No. 72 OF 1950

*A Bill further to amend the Indian Bar Councils Act,* 1926

BE it enacted by Parliament as follows :—

1. *Short title and commencement.*—(*1*) This Act may be called the Indian Bar Councils (Amendment) Act, 19

(*2*) It shall come into force at once.

2. *Amendment of section 2, Act XXXVIII of 1926.*—After clause (*d*) of sub-section (*1*) of section 2 of the Indian Bar Councils Act, 1926 (hereinafter referred to as the said Act), the following new clause shall be added, namely :—

"(*e*) 'Court' includes all courts, Civil, Criminal and Revenue established by any Union or State enactment."

3. *Substitution of new section for section 4 of the said Act.*—For section 4 of the said Act the following shall be substituted, namely :—

"4. *Composition of Bar Councils.*—(*1*) The Bar Council shall consist of the following members :

(*a*) the Advocate-General ;

(*b*) five members to be nominated by the High Court from amongst the Judges of that Court who had been advocates :

Provided that if the number of such Judges is less than five, then all such Judges shall be nominated to the Bar Council ;

(*c*) ten members to be elected from the Advocates practising in the Districts in the following way :

Ten electoral units each comprising of a number of Districts, shall be constituted as single member constituencies by the Bar Council on a population basis. One member from each of the said constituencies shall be elected for the Bar Council ;

(*d*) five members to be elected by the Advocates practising in the High Court :

Provided that in case the Bench of the High Court usually sits at more than one place, the Bar Council shall by rules made in that behalf allocate the number of members to be elected from each of such places ;

(*e*) three members to be nominated from amongst the Advocates by the High Court :

Provided that no Advocate shall be eligible for membership who has not for less than ten years been entitled as of right to practise in the High Court.

(*2*) There shall be a Chairman and a Vice-Chairman of each Bar Council. In States where there is an Advocate-General, he shall be the *ex-officio* Chairman, while the Vice-Chairman shall be elected by the Council in such manner as may be prescribed :

Provided that in States where there is no Advocate-General, the Chairman of the Bar Council shall be elected by the Council in such manner as may be prescribed."

4. *Substitution of new section for section 5 of the said Act.*—For section 5 of the said Act the following shall be substituted, namely :—

"5. *Term of Membership of Bar Council.*—(*1*) The term of office of the Advocate-General shall be till he holds that office.

(*2*) The term of office of the members mentioned in clause (*b*) of sub-section (*1*) of section 4 shall be five years or till they hold the office of the Judge of the High Court whichever is less.

(3) The term of office of the members of the Bar Council mentioned in clauses (*c*) and (*d*) of sub-section (*1*) of section 4 shall be nine years :

Provided that upon the first constitution of the Bar Council after this Act comes into force, the Chairman shall make such provision that one-third of the members holding seats under sub-section (*1*) of section 4 shall retire every third year.

(4) The seats falling vacant by such retirement shall be filled up by nomination or election as the case may be, from the members of the same class :

Provided that the members who retire shall be eligible for re-election."

5. *Amendment of section 6 of the said Act.*—In section 6 of the said Act—

(*i*) in clause (*a*) of sub-section (*1*) the following shall be omitted, namely :—

"the method of determining in accordance with the provisions of sub-sections (*2*) and (*3*) of section 4, the candidates who shall be declared to have been elected" ;

(*ii*) clause (*b*) of sub-section (*1*) shall be omitted ; and

(*iii*) in sub-section (*2*) the words "with the previous sanction of the High Court" shall be omitted.

6. *Amendment of section 7 of the said Act.*—After clause (*a*) of section 7 of the said Act the following new clauses shall be inserted, namely :—

"(*aa*) the appointment and constitution of District Bar Council Committees and their powers and duties ;

(*aaa*) the appointment and constitution of committees for the purpose of supervising legal education ; and" ;

7. *Amendment of section 9 of the said Act.*—In sub-section (*1*) of section 9 of the said Act, the words "with the previous sanction of the High Court" shall be omitted.

MISCONDUCT

8. *Substitution of new section for section 10 of the said Act.*—For section 10 of the said Act the following shall be substituted, namely :—

"10. *Punishment of advocate for misconduct.*—(*1*) The Bar Council may, in the manner hereinafter provided, reprimand, suspend or remove from practice any advocate of the High Court who in its opinion is unfit to be an advocate.

(*2*) Upon receipt of a complaint made to it by the High Court or by any court, or by any other person that such advocate has been guilty of misconduct, the Bar Council shall unless it considers it unnecessary to do so, refer the case for inquiry either to the court of a District Judge (hereinafter referred to as a District Court) or to a District Committee of the Bar Council or to a sub-committee of its own members, constituted for the purpose, to make a preliminary enquiry and make a report about it to the Bar Council.

(*3*) The finding of a District Court or a District Committee of the Bar Council, or of the sub-committee of the Bar Council, as the case may be, shall be sent to the Bar Council.

(4) If on the receipt of the report under sub-section (3) or even if without such a reference and report the Bar Council is of opinion that the case should be tried, it shall be tried by a Committee of the Bar Council (hereinafter referred to as the Tribunal).

(5) The Tribunal shall consist of not less than three and not more than five members of the Bar Council, appointed for the purpose of the inquiry by the President of the Bar Council and one of the members so appointed shall be appointed to be the President of the Tribunal.

(6) After the appointment of the Tribunal, the complaint and the report of the inquiry, if any, shall be sent to the Tribunal. The Tribunal on receipt of such inquiry or report shall fix a day for the hearing of the case and shall cause notice of the day so fixed to be given to the advocate concerned, to the Registrar of the High Court and to the complainant, if any, and shall afford the advocate concerned and the complainant, if any, an opportunity of being heard and of producing such material before it as they desire:

Provided that the Tribunal shall not be bound by any rules of evidence.

(7) On the termination of the inquiry the Tribunal shall pass final orders in the case. In passing the final orders the Tribunal may pass such orders as regards the payment of the costs of the inquiry and of the hearing before it as it thinks fit.

(8) A copy of the judgment of the Tribunal shall, thereafter, be submitted to the High Court. When any advocate is reprimanded or suspended by the Tribunal a record of the punishment shall be entered against his name in the roll of advocates of the High Court and when an advocate is removed from practice his name shall forthwith be struck off the roll; and the certificate of the advocate so suspended or removed shall be recalled.

(9) The High Court shall make rules to prescribe the procedure to be followed by the District Courts and the Bar Council shall make rules and prescribe the procedure to be followed by the District Bar Council Committees, sub-committee of the Bar Council and the Tribunal in the conduct of the inquiries referred to under this section."

9. *Omission of sections 11 and 12 of the said Act.*—Sections 11 and 12 of the said Act shall be omitted.

10. *Amendment of section 13.*—In section 13 of the said Act—

(*i*) in sub-section (*1*)—

(*a*) after the word "Tribunal" the words "a District Committee of the Bar Council or a sub-committee of the Bar Council" shall be inserted; and

(*b*) in the proviso, after the word "Tribunal" the words "District Committee of the Bar Council or the sub-committee of the Bar Council" shall be inserted;

(*ii*) in sub-section (*2*) after the words "a Tribunal" the words "or District Committee of the Bar Council or a sub-committee of the Bar Council making the enquiry" shall be inserted;

(iii) in sub-section (3)—

(a) in clause (a)—

(i) after the word "Tribunal" the words "or a sub-committee of the Bar Council appointed for the purpose of making the enquiry" shall be inserted; and

(ii) for the words "by which the Tribunal has been constituted" the following shall be substituted, namely:—

"and that of the District Committee of the Bar Council making an enquiry shall be the District for which it is appointed"; and

(b) in clause (b) after the word "Tribunal" wherever it occurs the words "or sub-committee of the Bar Council or a District Committee of the Bar Council making enquiry" shall be inserted; and

(iv) in sub-section (4) after the word "Tribunal" the words "or sub-committee of the Bar Council or the District Bar Council making the inquiry", shall be inserted.

*Amendment of section 15.*—In section 15 of the said Act—

(i) the words "with the previous sanction of the High Court for which it is constituted" shall be omitted;

(ii) clause (a), the following new clause shall be inserted, namely:—

"(aa) the enrolment of advocates and removal of their names from the roll of advocates permanently or for a limited period";

(iii) in clause (c) for the words "the giving of facilities" the words "making provision" shall be substituted; and

(iv) for clause (f) the following shall be substituted, namely:—

"(f) any matter incidental or ancillary to any of the foregoing matters."

## STATEMENT OF OBJECTS AND REASONS

The Indian Bar Councils Act (Act XXXVIII), 1926 has now been in force for the last twenty years. It has done considerable good in unifying the Bar of India and bringing them to the same level. But unfortunately it has not succeeded much in its aim of organising the legal profession, purifying it and raising it to a higher level. This failure appears to be due to a large extent to the defective system of election to the Bar Councils. The keeping of the whole of a State as an electoral college, has got the defect, that the voters are not in a position to vote on their own knowledge. They must necessarily depend upon the recommendation of their friends and acquaintances. Any one who takes to canvassing and carrying on propaganda has got better chances of success than one who is otherwise much better fitted to be a member of the

Bar Council, but has neither inclination nor time for such methods of canvassing. So the basic changes that are proposed in this amending Bill are as follows:

1. The membership has been distributed to constituencies composed of a number of Districts in the States, each of such constituencies returning one member to the Bar Council. It is expected that this distribution of seats shall enable the voters to vote on their personal knowledge and without the necessity of canvassing.

2. Similarly in the case of advocates practising in the High Court, five seats have been allotted to them. In case the High Court sits at more than one place then these seats have to be distributed between the two places by the Bar Council.

3. To give the Judges of the High Court who had been advocates greater interests in the matter of the legal profession five seats have been allotted to the Judges of the High Court for the purpose and further the High Court has been given the power to nominate three persons from the Advocates.

4. As the work of organising the profession must be left in experienced hands, it has therefore been provided that only such advocates shall be eligible to the membership of the Bar Council who have been entitled as of right to practise in the High Court for a period of ten years or more.

5. To give real responsibility and sense of the security of tenure to the members of the Council and to avoid the periodical canvassing the period of membership has been increased to 9 years, one-third of the members returning every third year.

The important change proposed in this Bill is the trial of the cases of misconduct by the Bar Council itself. To make the legal profession independent we must be able to improve it ourselves and must have a sense of responsibility and that cannot be created unless we have got the power of punishing the transgressors. These are the two main principles on the basis of which the Indian Bar Councils Act is intended to be amended.

This statement of the objects and reasons, shall however, be not complete without some reference being made to the question of legal education. For an autonomous Bar, the provisions for imparting the legal education and its control is of basic importance. Provision for providing facilities for legal education was kept as a function of the Bar Councils, by the Indian Bar Councils Act XXXVIII of 1926, but no steps have yet been taken in this direction by the Bar Councils constituted under the Act. The reason for this failure, again, appears to be the method of election, and the period of the membership of the Council being too short for any substantial work on a planned basis. In the present draft this function has been brought more specifically to the fore and it is hoped that by this change in the method of election and giving greater stability of tenure of office, the members of the Bar Council will be able to do some beneficial work in this direction.

MOHAMMAD AHMAD KAZMI.

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## BILL NO. 71 OF 1950

*A Bill to amend the Fifth Schedule of Constitution of India.*

BE it enacted by Parliament as follows :—

1. *Short title.*—This Act may be called the Constitution (Amendment of Fifth Schedule) Act, 19

2. *Definitions.*—In this Act, "co-operative society" means a co-operative society registered under the Co-operative Societies Act, in force in the State concerned.

"State enterprise" means any enterprise undertaken by the Government of any State or by the Government of India.

3. *Amendment of the Fifth Schedule.*—After clause (*c*) of sub-paragraph (2) of paragraph 5 of the Fifth Schedule of the Constitution, the following new clauses shall be added, namely :—

"(*d*) regulate or restrict or prohibit the carrying on of business by any person not belonging to a Scheduled Tribe or by any firm or corporation other than a co-operative society, as forest contractor or as purchaser and seller of major or minor forest products or as trader in food crops and other articles of consumption within a Scheduled Area ;

(*e*) regulate or restrict or prohibit the acquisition and holding of agricultural or horticultural land within a Scheduled Area by any person not belonging to a Scheduled Tribe or by any firm or corporation other than a co-operative society ;

(*f*) regulate or restrict or prohibit the grant of any State land in a Scheduled Area for agricultural or horticultural purposes to any person not belonging to the Scheduled Tribe or any corporation or firm other than a co-operative society ;

(*g*) regulate or restrict or prohibit the entry into or residence in a Scheduled Area of such person or persons whose presence in a Scheduled Area may be deemed to be detrimental to the legitimate interests and welfare of the Scheduled Tribes therein and whose presence may be deemed to jeopardize peace and tranquillity in a Scheduled Area ;

(*h*) extern from a Scheduled Area any person or class of persons mentioned in clause (*g*) above ;

(*i*) declare that any forests or any class of forest products or mines or any natural resources obtaining in a Scheduled Area may be reserved for exploitation as State enterprise and that no person or persons or firm or corporation shall be allowed to exploit such forests or forest products or mines or any natural resources ; and

(*j*) declare that any scheme or schemes of development that may be undertaken in a Scheduled Area shall be so executed as not to deprive a member or members of the Scheduled Tribe residing therein of any interest that may be subsisting at the time of inauguration of such scheme or schemes."

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## STATEMENT OF OBJECTS AND REASONS

The object of this Bill is to amend the Fifth Schedule of the Constitution of India for the following reasons :—

That the conditions prevailing in certain Scheduled Areas in India are detrimental to the proper development of the Scheduled Tribes residing therein.

That the steady and growing influx of various classes of people and interests in the Scheduled Areas in recent years especially since the last world war, is detrimental to the establishment of State and co-operative enterprises for augmenting the financial resources of the Union and States of India by exploiting the mineral, forest and other natural resources obtaining in the Scheduled Areas.

That the presence of certain classes of people, other than the Scheduled Tribes, and interests is likely to foment ill feelings and prove detrimental to peace and tranquillity in the Scheduled Areas.

P. KODANDA RAMIAH.

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## BILL NO. 66 OF 1950

*A Bill further to amend the Indian Companies Act, 1913*

BE it enacted by Parliament as follows :—

1. *Short title and commencement.*—(*1*) This Act may be called the Indian Companies (Amendment) Act, 195

(*2*) It shall come into force on such date as the Central Government may by notification in the official Gazette, appoint.

2. *Insertion of new section 138A in Act VII of 1913.*—After section 138 of the Indian Companies Act, 1913 (hereinafter referred to as the said Act) the following new section shall be inserted, namely :—

"*138A. Investigation of Company's affairs in other cases.*—Without prejudice to their powers under section 138, the Central Government—

(*a*) Shall appoint one or more competent inspectors to investigate the affairs of a company and to report thereon in such manner as the Central Government may direct, if—

(*i*) the company by special resolution ; or

(*ii*) the court by order ;

declares that its affairs ought to be investigated by an Inspector appointed by Central Government ; and

(*b*) may do so if it appears to the Central Government that there are circumstances suggesting—

(*i*) that its business is being conducted with intent to defraud its creditors or the creditors of any other person or otherwise for a fraudulent or unlawful purpose or in a manner oppressive of any part of its members or that it was formed for any fraudulent or unlawful purpose; or

(*ii*) that persons concerned with its formation or the management of its affairs have in connection therewith been guilty of fraud, misfeasance or other misconduct towards it or towards its members; or

(*iii*) that its members have not been given all the information with respect to its affairs which they might reasonably expect."

3. *Amendment of section 141A.*—In section 141A of the said Act:

(*i*) In sub-section (*1*) after the word and figures "Section 138" the word, figures and letter "or 138A", shall be inserted.

(*ii*) After sub-section (*2*) the following new sub-sections (*3*) and (*4*) shall be inserted, namely:—

"(*3*) Without prejudice to any action that may be taken under sub-sections (*1*) and (*2*) of section 141A, if from any such report made under section 138 or 141 or otherwise it appears to the Central Government that proceedings ought, in the public interest, to be brought by any body corporate dealt with by the report for the recovery of damages in respect of any fraud, misfeasance or other misconduct in connection with the formation of the body corporate or the management of its affairs or for the recovery of any property of the body corporate which has been misapplied or wrongfully retained, they may themselves bring proceedings for that purpose in the name of the body corporate, or authorise the Committee of Management appointed under section 141B so to do.

(*4*) The Central Government shall, if they themselves bring such proceedings, indemnify the body corporate against any costs or expenses incurred by it in or in connection with any proceedings brought by virtue of the last foregoing sub-section (*3*), and when such proceedings are taken by the Committee of Management under such authority as aforesaid the Committee of Management shall be entitled to pay such costs or expenses out of the funds of the company."

(*iii*) The existing sub-sections (*3*) and (*4*) of section 141A of the said Act shall be re-numbered as sub-sections (*5*) and (*6*), respectively.

4. *Insertion of new section 141B in Act VII of 1913.*—After section 141A of the said Act the following new section shall be inserted, namely:—

"*141B. Power to make provision for the control and management of a company.*—(*1*) Without prejudice to any action that may be taken under

section 141A, if from any report made under section 138 or 138A or 141, or otherwise owing to fraud or misappropriation or misconduct of or mismanagement or misfeasance or breach of trust by the Directors or the Managing Agents of a Company, it appears to the Central Government that the control and management of the affairs of the Company ought in the public interest be taken over by Government, the Central Government may, by notification, in the official Gazette take over the control and management of the affairs of the Company, and may appoint a Committee of Management to take charge of management and control the affairs of the Company its assests moveable and immoveable for the period and on the terms and conditions specified therein.

(*2*) Notwithstanding anything contained in the Memorandum and the Articles of the Association of the Company, the Committee appointed under sub-section (*1*) shall be in sole charge, the control and management of the affairs of the Company and its assets moveable and immoveable, to the exclusion of the Directors or the Managing Agents of the Company.

(*3*) Notwithstanding anything contained in the Memorandum and Articles of Association of the Company, the Central Government shall vest in the Committee all the powers given to the Directors by the said Act, and all the powers given to the Directors or the Managing Agents by the Memorandum and Articles of Association of the Company or by any agreement between them and the Company.

(*4*) A competent independent person shall be appointed as Chairman of this Committee by the Central Government.

(*5*) The Committee shall consist of not less than six members besides the Chairman, who shall be whole-time Officer.

(*6*) The Central Government shall set up a Special Tribunal to try the findings of the enquiry, to assess the loss suffered by the concern under the said management, to pass orders as to recovery of damages in respect of any fraud, misfeasance or other misconduct of management of its affairs or for the recovery of any property of the body corporate which has been misapplied or wrongfully retained and also to try persons for criminal offences in respect of their dealings with the Company.

(*7*) The period specified in the notification under sub-section (*1*) may be extended by the Central Government from time to time by notification published in the official Gazette.

(*8*) No suit shall be brought in any Civil Court and no prosecution, suit or other proceedings shall lie against the Committee for anything done or intended to be done in good faith.

(*9*) The Central Government may order the expenses of and incidental to any inquiry held under section 138, to be paid by such persons who are found guilty of or responsible for the deeds resulting into loss or damage to the Company. Expenses ordered under this sub-section shall be recoverable as arrears of land revenue.

(*10*) The Central Government may make rules for carrying out the purposes of this section and shall place before Parliament, a copy of the rules, within a fortnight of its publication in the official Gazette."

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# STATEMENT OF OBJECTS AND REASONS

Constant complaints have been made by several investors, public bodies, shareholders' associations and the press that in regard to some of the important textile and other industrial companies some of the Directors and Managing Agents have abused their position in order to promote their own interests at the expense of not only the shareholders of those companies but also the public generally. This is not only one of the reasons for the disappearance of confidence in joint stock enterprise, which has been particularly manifest in the last two or three years, but it has also caused a considerable loss of revenue to Government, and furthermore, interferred with the stepping-up of production and Government's industrial programme. It is submitted, therefore, as far as this aspect is concerned, that it is necessary immediately to amend that part of the Indian Companies Act in order to give protection to investors, so that further damage may be prevented, particularly in cases where the managements have, directly and indirectly, acquired controlling interest and a majority of shares. In such cases, the shareholders in the various companies are completely helpless, and as the law stands at present, it is virtually impossible for them to challenge the misdeeds of these Managing Agents in the Courts in order to safeguard their interests. All this involves the expendiutre of money and time, apart from other difficulties whilst the Agents are able to defend themselves at the companies' cost, and incidentally at that of the shareholders themselves.

At present, the only remedy open to the public is to make an application to the Government under section 138 of the Indian Companies Act, 1913, requesting the Government to appoint Inspectors to investigate the affairs of the Company and to report to Government. Such investigations, when held, are completed only after a good amount of labour, time and cost.

It is, therefore, suggested that the Central Government be given immediately powers to squarely meet necessities and to conduct investigation of their own if felt necessary.

The question arises, what action is open at the present time either to the shareholders or to Government to remedy the above state of affairs and stop further ruination of a concern. To the applicants, shareholders and the general public no further remedy is open, for controlling voting power is usually in the hands of the Managing Agents. The only remedy open to the Government under the Indian Companies Act, 1913, as it stands, is under the section 141A, namely to refer the matter to the Advocate-General or to the Public Prosecutor and if the Advocate-General or the Public Prosecutor considers the case as one in which prosecution can be instituted, he will cause proceedings to be taken. It is obvious that criminal proceedings will be prolonged and take a number of years and in the meanwhile the management will continue in the same hands.

It is obvious, therefore, that a new remedy ought to be devised by the Government without any loss of time to prevent further mismanagement, and to control the affairs of the Company for such a period and on such terms, and conditions as the Government may think fit. It is submitted, therefore, that this remedy must be taken expeditiously to prevent any further depredations and mismanagement by Managing Agents. Hence this Bill.

R. K. SIDHVA.

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# Bill No. 69 of 1950

*A Bill to provide for punishment for adulteration of foodstuffs.*

Be it enacted by Parliament as follows:—

1. *Short title, extent and commencement.*—(*1*) This Act may be called the Prevention of Adulteration of Food Act, 1950.

(*2*) It shall extend to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

2. *Definitions.*—"Article of food" shall mean anything and everything which a human being eats, tastes or consumes in any form, pure or mixed. It shall include all kinds of edible oils, ghee, butter, etc.

"adulteration" means and includes mixing any article of food with any other thing or article of food including an article of a similar kind and quality.

3. *Application.*—The Act shall apply to all persons connected with any export or import transactions.

4. *Punishment for adulteration of foodstuffs.*—(*1*) Any shop-keeper, trader, merchant or any person who sells, deals in, or exchanges, any article or articles of food, which on examination is found to be adulterated with any other article whatsoever, shall, on conviction before a Magistrate of the First Class, be punished with rigorous imprisonment which may extend to seven years and with fine.

(*2*) Any person or persons from whom any particular merchant, trader, shop-keeper or dealer obtains an adulterated article or articles of food shall be guilty of the same offence and shall be tried jointly with the immediate seller.

5. *Trading by persons convicted under this Act.*—(*1*) Names of all persons who are convicted under this Act shall be notified in the official Gazette and they shall, under no circumstances, be permitted to trade, or deal with any article of food thereafter.

(*2*) If any person, contravenes the provisions contained in sub-section (*1*), he shall be liable, on conviction, before a Magistrate of the First Class to rigorous imprisonment for a term which may extend to three years and with fine.

6. *Pleas of defence.*—It shall be no defence under this Act that any shop-keeper, merchant, trader, or other person who sells, or is about to sell, or is found selling any article or articles of food in adulterated form, that he bought it from some one else in that particular condition, it being his duty to report adulteration where he has reason to suspect it to the authorities concerned.

7. *Percentage of mixture permissible and punishment for its contravention.*—(*1*) No foodgrains, oils, pulses or other grain intended for human consumption shall at any time contain more than five per cent of material other than that particular foodgrain.

(2) Any person selling any of the above foodgrains containing more than five per cent of other material shall be liable to be prosecuted and convicted under section 4 of this Act.

8. *Summary trial.*—The Government of India or Government of any province or Acceding State may confer powers of summary trial on any individual or class of Magistrates for summary trial of cases.

9. *Right of Appeal.*—It shall be competent for the Government of India or any Government or Province or Acceding State to restrict the time or the right of appeal in any particular case or class of cases.

## STATEMENT OF OBJECTS AND REASONS

Adulteration of foodstuffs is so rampant and the evil has become so widespread and persistent that nothing short of a somewhat drastic remedy provided for in the Bill can hope to change the situation. Only a concerted and determined onslaught on this most anti-social behaviour can hope to bring relief to the nation. All remedies intended to be effective must be simple. I believe this Bill meets these requirements.

P. S. DESHMUKH.

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BILL No. 68 OF 1950

*A Bill to amend the Indian Penal Code.*

BE it enacted by Parliament as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Indian Penal Code (Act XLV of 1860) (Amendment) Act, 1950.

(2) It shall extend to the whole of India.

(3) It shall come into force at once.

2. *Repeal of section 309 of the Indian Penal Code (Act XLV of 1860).*—Section 309 of the Indian Penal Code (Act XLV of 1860) is hereby repealed.

## STATEMENT OF OBJECTS AND REASONS

Section 309 of the Indian Penal Code provides punishment for attempts to commit suicide. Only those who are facing starvation and a slow death or are otherwise in the grip of dire economic necessity or are labouring under intolerable mental or emotional strain, mostly attempt to commit suicide. It is undesirable to penalise such persons. It is accordingly proposed to amend the Indian Penal Code by repealing section 309 thereof so as to make any attempt to commit suicide not a penal offence.

H. V. KAMATH.

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## BILL No. 94 OF 1950

*A Bill further to amend the Hindu Marriages Validity Act*, 1949

BE it enacted by Parliament as follows:—

1. *Short title.*—This Act may be called the Hindu Marriages Validity (Amendment) Act, 19

2. *Amendment of section 2, Act XXI of 1949.*—In section 2 of the Hindu Marriages Validity Act, 1949, after the word 'Jaina', the words 'or Buddhist' shall be inserted.

### STATEMENT OF OBJECTS AND REASONS

Under the Special Marriage Act of 1872 (Act III of 1872), marriages were only permitted between persons neither of whom professed the Christian, the Jewish, the Hindu, the Moslem, the Parsi, the Buddhist, the Sikh or Jaina religion, with the result that the Act did not apply to a marriage between persons either or both of whom professed the Hindu religion; and subsequently the Act was amended, by the Special Marriage (Amendment) Act, 1923 (XXX of 1923), and a provision was introduced therein whereby a marriage between persons each of whom professes the Hindu, the Buddhist, the Sikh or the Jaina religion, was validated. The Arya Marriage Validation Act, 1937 (No. XIX of 1937) removed certain other difficulties which confronted a section of Hindu society. This enactment enlarged the scope of marriage between persons who belonged to different castes or sub-castes of Hindus, or even marriage between persons where, either, or both of whom at any time before the marriage belonged to a religion other than Hinduism.

In 1949 it was thought advisable and proper to enact another measure namely, the Hindu Marriage Validity Act (XXI of 1949). In this Act XXI of 1949 there was an omission which requires immediate amendment in order to meet the situation prevailing in various parts of the Indian Dominion and more specially in the North and North-East, which is inhabited by Buddhists in large numbers.

It is necessary, therefore, that the Act XXI of 1949 should be amended and 'Buddhist' be included within the scope of the said Act. Very slight change will effect the purpose in view.

It is, therefore, proposed that this Bill be introduced in Parliament.

PRABHU DAYAL HIMATSINGKA.

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## BILL No. 93 OF 1950

*A Bill further to amend the Indian Penal Code*, 1860

BE it enacted by Parliament as follows:—

1. *Short title, extent and commencement.*—(*1*) This Act may be called the Indian Penal Code (Amendment) Act, 19

(*2*) It extends to the whole of India, including the State of Jammu and Kashmir.

(*3*) It shall come into force at once.

2. *Amendment of section 124A, Act XLV of 1860.*—For section 124A, of the Indian Penal Code (XLV of 1860) the following shall be substituted, namely :—

"124A. Whoever by words, either spoken or written, or by sign. or by visible representation, or otherwise, undermines or attempts to undermine the security of the State or attempts to overthrow the State, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine."

## STATEMENT OF OBJECTS AND REASONS

Article 19(1) (a) of the Constitution confers the right of freedom of speech and expression subject only to the operation of any law relating, *inter-alia*, to any matter which undermines the security of, or tends to overthrow the State. Sedition, as defined in section 124A of the Indian Penal Code, Act XLV of 1860, can, therefore, have no place in our penal law, inasmuch as it is inconsistent with the provisions of Article 19(1) (a) of the Constitution. The Bill accordingly seeks to amend section 124A of the Indian Penal Code, Act XLV of 1860, so as to bring it into line with the fundamental right of freedom of speech and expression conferred by Part III of the Constitution.

H. V. KAMATH.

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## BILL No. 76 OF 1950

*A Bill to define certain powers and privileges of Parliament of India and of its members.*

BE it enacted by Parliament as follows :—

### PART I

### PRELIMINARY

1. *Short title.*—This Act may be called the Parliament of India and its Members (Powers and Privileges) Act, 19 .

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Parliament" means the Parliament of India.

(*b*) "Parliament Hall" means the hall or room where a meeing of Parliament is held and includes its galleries and lobbies and the Chamber of the Speaker;

(*c*) "Parliament Premises" includes the whole of the building with the compound, if any, in which Parliament is for the time being summoned to meet;

(*d*) "Committee" in section 16 means the Committee of Privileges; elsewhere it means any committee of Parliament;

(e) "Member" means a member of Parliament, a person who by virtue of the Constitution of India has a right to speak in or otherwise take part in the proceedings of Parliament;

(f) "newspaper" shall have the meaning assigned to it in the Press and Registration of Books Act, 1867 (XXV of 1867);

(g) "Secretary" means the Secretary to Parliament; and

(h) "Speaker" includes any person for the time being performing the duties of the Speaker.

## PART II

### General Privileges of Members

3. *Members exempt from personal appearance in civil and revenue courts.*—A member shall be exempt from personal appearance in any civil or revenue court during the continuance of a session of Parliament and during a period of fifteen days before its commencement and after its conclusion and where a session of Parliament is adjourned to a specified date, the adjournment being for a period not exceeding fifteen days, during the period of such adjournment.

4. *Members not liable to civil or criminal action in respect of any submission to Parliament.*—No suit, prosecution or other legal proceeding shall lie against a member on account of any matter or thing which he has submitted to or has given notice of his intention to submit to Parliament by petition, Bill, resolution, motion, question or by any other form of submission.

5. *Communication of information of arrest of member on criminal charge to Speaker.*—If any member is arrested or detained on a criminal charge or is, on convoction by any criminal court, sentenced to imprisonment, information of such arrest, detention or sentence together with the particulars of the charge made and of the charge proved against such member and of his conviction, shall forthwith, be communicated to the Speaker by the authority which has ordered the arrest or detention or imposed the sentence. The Speaker shall, if Parliament is in session on the day on which such information is supplied or if Parliament is not in session, on the opening day of the next session of Parliament, place before it the information, together with the particulars so received by him:

Provided that on a charge of treason, felony and breach of peace, Parliament shall not have any right to discuss the validity and otherwise of the arrest, detention or sentence.

6. *Exemption of salary and allowances from attachment or sale in execution of decree.*—Notwithstanding anything contained in the Code of Civil Procedure, 1908, the salary and allowances paid or payable to the Speaker, the Deputy Speaker, a Minister or a member shall be exempt from attachment in execution of a decree.

## PART III

### PRIVILEGES OF MEMBERS DURING THE SESSION OF PARLIAMENT

7. *No process to be served within Parliament premises.*—Notwithstanding anything contained in any law for the time being in force, during the continuance of a session of Parliament and during a period of fifteen days before its commencement and after its conclusion, no civil or criminal process, shall be served on a member within Parliament premises.

8. *Attendance of a member detained in custody at Parliament meetings.*—(*1*) A member who is accused of a bailable offence and is arrested or is detained in custody, may intimate to the authority arresting or detaining him or, if the matter be pending in a court, may apply to the court that he desires to attend a meeting, of Parliament.

(*2*) On receiving such intimation or application, the authority or the court, as the case may be, shall, if Parliament has been summoned to meet or is in session, forthwith, release the member on his personal recognizance.

9. *Right of a seat of a member in public functions.*—Members of Parliament invited to public functions shall have their seats immediately after the Speaker, Deputy Speaker, Ministers and Deputy Ministers.

10. *Absence of a member.*—A member shall not remain absent from Parliament when in session for more than fifteen consecutive days without the permission of the Speaker.

11. *Respect to members and the House.*—No member shall show disrespect to another member in Parliament and to the House collectively.

## PART IV

### PUBLICATION OF THE DEBATES AND PROCEEDINGS OF PARLIAMENT

12. *Publication of Parliament proceedings by or under the authority of Parliament.*—Any publication of a report, paper, votes or proceedings in connection with Parliament by order of the Speaker shall be deemed to be published by or under the authority of Parliament and no suit, prosecution or other legal proceeding shall lie against a person in respect of anything done in pursuance of such authority or order.

13. *Immunity from legal action of publisher, etc.*—No suit, prosecution or other legal proceeding shall lie against an editor, printer or publisher of any newspaper or any person connected with the editing, printing or publishing of a newspaper on account of the publication of a faithful and correct report or a faithful, accurate and fair summary of the proceedings of Parliament.

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## PART V

CONTEMPT OF PARLIAMENT AND DISTURBANCE OF PARLIAMENT PROCEEDINGS

14. *Contempt of Parliament.*—(*1*) Whoever, not being a member or being a member in a place other than Parliament Hall—

(*a*) makes wilful misrepresentation of the debates or proceedings of Parliament;

(*b*) makes or publishes any libellous reflection upon the proceedings of Parliament;

(*c*) makes or publishes any maliciously false or scandalous charge or imputation or a libellous charge against a member concerning his conduct as such member;

(*d*) unduly influences any witness in regard to any evidence to be given by him before a Committee; and

(*e*) whoever whether within or without the Parliament Hall uses any criminal force to, or obstructs, assaults, threatens or insults any member—

(*i*) while he is on his way to attend a meeting of Parliament or while he is returning from Parliament after attending a meeting thereof; or

(*ii*) on account of any vote given, speech made, or other action taken, or not taken, by such member; or

(*iii*) with a view to influence the conduct of any member in respect of any matter pending in, or expected to be brought before, Parliament;

shall be guilty of contempt of Parliament.

*Explanation* 1.—A statement to the effect that any person will not vote for, or will not support, or will oppose, the re-election of a member if such member pursues a certain course of action, in relation to any matter pending in, or expected to be brought before Parliament shall not amount to a threat for the purpose of this sub-section.

*Explanation* 2.—In this sub-section the words "assault" and "criminal force" have the meanings respectively assigned to them in the Indian Penal Code, 1860.

(*2*) The provisions of sub-section (*i*) are in addition to, and not in derogation of, the provisions of any other law for the time being in force:

Provided that no person shall be punished twice for the same offence.

15. *Disturbance in Parliament proceedings.*—Whoever, not being a member, creates any disturbance within Parliament premises whereby the proceedings of Parliament are or are likely to be interrupted or obstructed shall commit an offence.

## PART VI

COMMITTEE OF PRIVILEGES

16 *Constitution of Committee of Privileges.*—(*1*) There shall be constituted a committee called the Committee of Privileges which shall consist of seven persons elected by Parliament from among its members according to the principle of proportional representation by means of a single transferable vote or in such other manner as the Speaker may determine.

(2) Such committee shall be constituted at the commencement of every session of Parliament. The members of the Committee shall hold office until a new Committee is constituted at the next session.

(3) The Committee shall elect a Chairman from among its members.

17. *Duties of Committee of Privileges.*—(1) It shall be the duty of the Committee of Privileges to enquire into—

(a) any matter falling under clauses (c) to (e) of sub-section (1) of section 14;

(b) any allegation made against a member that he has accepted or agreed to accept, or obtained or attempted to obtain any bribe, fee compensation or gift as an inducement or reward for doing or forbearing to do any act in the execution of his duties as a member or in respect of the promotion of, or support or opposition to, any Bill, resolution, question, matter or other thing submitted or intended to be submitted to Parliament;

(c) any other matter which Parliament may decide by a majority to refer.

(2) If the enquiry relates to the conduct of a member of the Committee such member shall not vote or otherwise take part in the proceedings of the Committee during such enquiry.

(3) The Committee shall in the case of every enquiry submit its findings to Parliament in the form of a report and Parliament shall, after discussion thereon, adopt or reject the report or make such other directions as it deems fit.

18. *Proceedings not invalid by reason of a vacancy or defect in the election of a member.*—No act or proceeding of the Committee of Privileges shall be deemed invalid by reason only of a vacancy in the Committee or a defect in the election of a member thereto.

19. *Power of Committee of Privileges to summon witnesses.*—(1) The Committee of Privileges may direct any person to attend before it either to give evidence or to produce a document in his possession or power.

(2) A person directed to attend before the Committee shall be served with a summons issued under the hand of the Secretary under orders of the Chairman of the Committee.

(2) A person directed to attend before the Committee shall be served person summoned is required to attend, and also whether his attendance is required for the purpose of giving evidence or to produce a document or for both purposes; and any particular document he is called on to produce shall be described in the summons with reasonable accuracy.

(4) Wherever practicable, service of the summons shall be made in person. But where after due and reasonable diligence the person summoned cannot be found, service may be effected by the serving officer leaving the summons at the usual or the last known place of residence of such person.

(5) A summons shall be served through the District Magistrate in whose jurisdiction the person summoned is found or within whose jurisdiction the usual or the last known place of residence of such person is situate. The

District Magistrate shall get the summons served by any person authorised by him in this behalf.

(6) Any person summoned merely to produce a document shall be deemed to have complied with the summons if he causes such document to be produced instead of attending personally to produce the same.

(7) The Committee may require any witness attending before it to be examined upon an oath or affirmation and it shall be lawful for the Secretary or the Chairman of the Committee to administer such oath or affirmation.

(8) Every person summoned before the Committee shall answer, fully and faithfully any question put to him or produce the document required by the Committee and no such person shall be liable to any civil or criminal proceedings in respect of any such answer or by reasons of the production of any such document.

(9) Any proceedings taken against any person in contravention of the provisions of sub-section (8) shall be stayed on the production of a certificate signed by the Speaker under the Seal of Parliament declaring that the answer or the document which has given rise to such proceedings was given in evidence before the Committee or was produced in obedience to a summons issued by the Committee.

20. *Travelling and Daily Allowances to witnesses.*—A person summoned to attend before the Committee shall be entitled to receive such travelling and daily allowances as may be admissible under rules made in this behalf by the Central Government.

## PART VII

### Penalties and Procedure

21. *Punishment for an offence under section 14.*—Any person found guilty of contempt of Parliament within the meaning of section 14 shall, on conviction, be punished with simple imprisonment which may extend to one month or with fine which may extend to fifty rupees or with both.

22. *Punishment for an offence under section 15.*—Any person contravening the provisions of section 15 shall, on conviction, be punished with simple imprisonment which may extend to three months or with fine not exceeding one hundred rupees or with both.

23. *Institution and withdrawal of prosecution.*—(1) No prosecution for any offence under this Act shall be instituted and no such prosecution shall be withdrawn except upon a complaint or an application in writing, as the case may be, of the Secretary made by or under order of the appropriate authority.

(2) The expression "appropriate authority" in sub-section (1) means—

(a) in the case of an offence under clauses (c) to (e) of sub-section (1) of section 14 or an offence under section 15, the Speaker;

(b) in any other case, Parliament, on a report of the Committee of Privileges.

24. *Cognizance of offence.*—No court other than the court of a First Class Magistrate shall take cognizance of any offence under this Act.

25. *Trial of offences.*—Except as otherwise provided in, and subject to the provisions of this Act, the provisions of the Code of Criminal Procedure, 1898, and of the Indian Evidence Act, 1872, shall apply to the trial of offences under this Act.

## PART VIII

### MISCELLANEOUS

26. *No person other than a member to enter the Parliament Hall without Speaker's permission.*—(*1*) No person other than a member shall, during the continuance of a meeting of Parliament enter Parliament Hall without the express permission of the Speaker.

(*2*) Any such person so entering Parliament Hall without such permission may be removed by order or under the authority of the Speaker.

27. *No action to lie for any act done by or under the authority of Parliament.*—No suit, prosecution or other legal proceeding shall lie against any person for any act done or purporting to be done in pursuance of any provision of this Act.

28. *Applicability of the Act to Committees.*—The provisions of this Act applicable to Parliament shall so far as may be, also apply to a Committee and in such a case a reference in this Act to the Speaker shall be construed as a reference to the Chairman of the Committee and a reference to a member shall be construed as a reference to a member of the Committee.

29. *Power to make rules.*—(*1*) The Central Government may make rules for carrying out the purposes of this Act.

(*2*) A draft of the rules proposed to be made under sub-section (*1*) shall be laid upon the table of Parliament and no further proceedings shall be taken in relation thereto except in pursuance of a resolution of Parliament that the rules be made either in the form of the draft or in any amended form agreed to by it.

## STATEMENT OF OBJECTS AND REASONS

The object of this Bill is to ensure the privileges and rights of members as defined in article 105 of the Constitution. I have exhaustively dealt in with various provisions in eight parts.

Part II deals with the general privileges of members. Members will be exempted from personal appearance in civil and revenue Courts during the continuance of session of Parliament. Similarly it is laid down that no suit or prosecution or other legal proceedings shall lie against a member on account of any matter which he has submitted to or has given notice of his intention of submitting to Parliament. It is also provided that in the event of any member having been arrested or detained or convicted by any Criminal court except on charge of treason, felony and breach of peace, intimation should be given to the Speaker on the day on which such information is supplied.

Part III provides privileges of members during the session of Parliament. No process will be served on any member within Parliament premises, fifteen days before or after the commencement of the session. It is also provided that any member who is accused of bailable offence and is arrested or detained in custody, shall apply to the court to attend the meeting of Parliament if he so desires. It is also provided in this part that in public functions, members of Parliament shall have the privilege to have seats immediately after the Prime Minister, Deputy Prime Minister, Speaker and Deputy Speaker and other Ministers.

Part IV deals with the publication of the debates and proceedings of Parliament. In the publication of all reports published in good faith, no proceedings shall lie against such a person, and the publisher is given immunity from legal action for such purpose.

Part V deals with the contempt of Parliament and the disturbance of Parliament proceedings. No member or any other person who is not a member of Parliament shall wilfully mis-represent the proceedings of Parliament or publish any libellous statement, reflect upon proceedings of Parliament, use any criminal force or obstruct or assault or threaten any member.

Part VI deals with the constitution and the duties of the Committee of Privileges. The Committee consisting of seven members elected by Parliament as Committee of Privileges would consider any matter which the Parliament may decide by majority to refer and also may look into any allegations made against the member when it is thought that he has accepted or agreed to accept or obtained bribe, fee or compensation as an inducement for doing something for the execution of his duties as the member of Parliament ; and the Committee shall have power to summon witnesses and make report to the Speaker.

Part VII provides for the penalties and procedures regarding the various sections under which an offence is committed.

Part VIII provides that any person other than a member shall not be allowed to enter Parliament. The Secretary of Parliament will act as Secretary of the Privileges Committee, and no action will lie for any act committed by authority of Parliament.

R. K. SIDHVA.

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BILL NO. 89 OF 1950

*A Bill further to amend the Child Marriage Restraint Act*, 1929.

BE it enacted by Parliament as follows :—

1. *Short title and commencement.*—(*1*) This Act may be called the Child Marriage Restraint (Amendment) Act, 195 .

(*2*) It shall come into force at once.

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2. *Amendment of Section 2, Act XIX of 1929.*—In section 2 of the Child Marriage Restraint Act, 1929 (Act XIX of 1929), (hereinafter referred to as the said Act), in clause (*a*),—

(i) for the word "eighteen" the word "twenty" shall be substituted; and

(ii) the following shall be added at the end, namely :—

"and in case the marrying male is over 45 years of age, under eighteen years of age."

3. *Amendment of Section 4, Act XIX of 1929.*—In section 4 of the said Act, the following shall be added at the end, namely :—

"In case the male who contracts child marriage is over 45 years of age he shall be punishable with imprisonment which may extend to three months and shall also be liable to fine which may extend to one thousand rupees."

## STATEMENT OF OBJECTS AND REASONS

The Bill has twofold objects :

(*a*) to raise the age of marriage of boys from eighteen to twenty,

(*b*) to raise the age of marriage of girls to eighteen in case the marrying male is over 45 years of age.

Now that the marriageable age of girl has rightly been raised to fifteen, it is but meet that the age of the boys be raised to at least twenty years to avoid ill-matched marriages. The difference of three years between boys and girls is not sufficient and it ought to be at least five years.

The Bill also seeks to afford protection to girls under eighteen against ill-matched marriages, say with males over the age of 45 years usually widowers with children perhaps older than or equally old as these young girls.

The relative ages and consequent outlook on life of the couple being dissonant the period of married life is short and seldom happy. In a fairly large number of cases the young wife becomes a widow after enjoying a short span of married life even before she has grown to full womanhood. The conditions of widows in communities which prohibit re-marriage is exteremely deplorable. In other communities also the fate of the widow is full of great hardships and misfortunes.

The normal happy matrimonial felicity and companionship, characteristic of suitable matches, are wanting in such marriages which should be discouraged and interdicted. Justice demands that young girls be protected against social tyranny of such reprehensible type.

The Government is committed to protect childhood and youth against exploitation of all sorts by Article 39 of the Constitution and the imperative demands of social justice make it obligatory upon Parliament to enact that girls below 18 years of age who are minor under the eye of the Law should not, in any case, be allowed to marry a man above 45 years of age.

THAKUR DAS BHARGAVA.

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## BILL No. 77 OF 1950

*A Bill to provide for the protection of certain Hindu religious institutions known as Mutts.*

BE it enacted by Parliament as follows:—

### CHAPTER I

1. *Short title and extent.*—(*1*) This Act may be called the Hindu Mutts Act, 19

(*2*) This Act shall apply to all Hindu religious institutions which are, or fall within the definition of Mutts, as defined in this Act.

(*3*) The Central Government or the Government of any State with the previous approval of the Central Government may by notification in the Official Gazette, by name, extend the provisions of this Act to, or exclude from the provisions of this Act, any Mutt or other institution liable to be regarded as a Mutt.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Government" means, the Government of India;

(*b*) "State Government" means the Government of a State;

(*c*) "Mutt" means a Hindu religious institution established or maintained for the preservation and promotion of the tenets or traditions of any Hindu religious denomination or any section thereof and presided over by the Head of the Mutt;

(*d*) "Head of a Mutt" means a person who presides over the Mutt and occupies the position of a *Guru* to a body of disciples;

(*e*) "Endowments of a Mutt" means a property given or endowed by the donors for a specific religious purpose connected with the Mutt.

*Explanation I.*—Property in the possession of a Mutt which has been earmarked or whose income has been continuously spent for a specific religious purpose connected with the Mutt for more than twenty years shall be presumed to be a part of the Endowments of a Mutt.

*Explanation II.*—All immoveable properties which have come into possession of the Head of a Mutt on the date of his succession to the Mutt shall be presumed to be the Endowments of the Mutt.

*Explanation III.*—All properties whether moveable or immoveable, belonging to or endowed for a temple attached to a Mutt shall not be deemed to be part of the Endowments of a Mutt.

*Explanation IV.*—All properties whether moveable or immoveable acquired by the Head of a Mutt during his period, including *Pada Kanikkas* or other property gifted to the Head of Mutt without any specific trust attached to them and all income of whatever kind derived from the properties vested in, or in the possession of a Mutt, not being endowments of a temple attached to the Mutt, shall not be treated as Endowments of the Mutt.

(*f*) "Prescribed" means prescribed by Rules made by the Government under this Act.

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## CHAPTER II

### ENDOWMENTS OF THE MUTT

3. *Appointment of an agent by the Head of a Mutt.*—The Head of a Mutt shall by Power of Attorney appoint an Agent for the purpose of managing the Endowments of the Mutt. Such Agent shall be deemed to represent the Mutt for all purposes of the secular affairs of the Mutt.

4. *Procedure against the mismanagement of the Endowments of a Mutt and powers and duties of the Head of a Mutt.*—(*1*) Any twenty or more persons having interest in the Mutt may apply by petition to the Court alleging that the Endowments of a Mutt are being mismanaged or their income spent for improper purposes, and if the Court on enquiry is satisfied that the Endowments of the Mutt are mismanaged, the Court may by an order settle a scheme of administration for the Endowments of the Mutt.

(*2*) In settling such a scheme, the court may associate any person or persons having interest in the Mutt with the Agent appointed by the Head of the Mutt for purposes of managing the Endowments of the Mutt, and prescribe other regulations for the proper administration of the Endowments.

(*3*) The powers and duties of the Head of the Mutt and of his Agent in respect of the management of the Endowments of the Mutt shall be deemed to be the same as the powers and duties of a trustee under the Indian Trusts Act, 1882.

(*4*) No scheme settled under this section shall,—

(*i*) restrict in any manner the power of the Head of the Mutt to appoint the Agent for managing the Endowments of the Mutt; or

(*ii*) restrict or interfere with the power of the Head of the Mutt regarding management and the disposal of the income of the properties of the Mutt, other than the Endowments of the Mutt.

5. *Maintenance of a Register by the agent.*—The agent of a Mutt shall maintain a register showing,—

(*a*) the name of past and present Heads of the Mutt, and particulars as to the custom or usage, if any, regarding succession to the office of the Head of the Mutt;

(*b*) the particulars of all properties belonging or appertaining or annexed to the Mutt and the title deeds, if any, relating thereto; and

(*c*) such other particulars as may be prescribed.

## CHAPTER III

### MISCELLANEOUS

6. *Application of the funds or property of the Mutt.*—The Head of a Mutt, and every Manager, Agent, or other person managing or administering the affairs and property connected with the Mutt, shall be bound to apply the funds or properties of the Mutt in accordance with the terms of the

trust or usage of the Mutt or temple and the endowments or the income therefrom shall not be applied or used for objects or purposes inconsistent with or foreign to the objects or purposes for which the Mutt concerned was founded or established.

7. *Procedure for, exchange, gift, sale, mortgage and lease, of the immoveable property.*—Any exchange, gift, sale or mortgage and any lease for a term exceeding five years, of any immoveable properties being part of the Endowments of a Mutt shall be void unless the same is sanctioned by the court as being necessary or beneficial to the Mutt.

8. *Payment of costs incidental to any suit or legal proceeding.*—All costs and expenses of and incidental to any suit or legal proceeding under this Act shall be payable out of the funds of the temple or the Mutt unless the court orders for reasons to be recorded.

9. *Saving of established customs and usages.*—Nothing in this Act contained shall affect any established usage of a Mutt or the rights, honours, emoluments and perquisites to which any person may by custom or otherwise be entitled in such Mutt.

10. *Right to establish and maintain Mutts and management of their affairs.*—Nothing in this Act shall affect the right of any Hindu religious denomination or any section thereof to establish and maintain their own Mutts or like institutions for religious and charitable purposes or affect their right to manage the affairs of such institutions in matters of religion in accordance with their own desires and arrangements.

11. *Procedure for removal of the Head of a Mutt and appointment of another head.*—(*1*) Any twenty or more persons having interest and having obtained the consent in writing of the Advocate-General of the State in which the spiritual head of a Mutt is situated may institute a suit in the court to obtain a decree for removing the Head of a Mutt for any one or more of the following reasons, *viz.*,—

(*a*) for being of unsound mind;

(*b*) for suffering from any physical or mental defect or infirmity rendering him unfit to be the Head of a Mutt;

(*c*) for having ceased to profess the Hindu religion;

(*d*) for being convicted for any offence involving moral turpitude; and

(*e*) for the gross mismanagement of the Mutt and breach of any trust created in any respect of property of the institution.

(*2*) The court in deciding such a suit may give directions for the appointment of a new Head of the Mutt having due regard to the usages of the Mutt.

12. *Power to make rules.*—The Government may make Rules for the purpose expressly allowed under this Act and generally for carrying out the purpose of this Act.

13. *Repeals.*—On the coming into force of this Act, all provisions of any State law or of any scheme settled by any authority, or order or notification,

which are repugnant to the provisions of this Act, shall to the extent of the repugnancy be inoperative and of no effect.

14. *Audit of the Accounts of Mutt.*—(*1*) The accounts of every Mutt shall be audited annually by a registered accountant and auditor.

(*2*) The auditor shall make a report in such form as may be prescribed, specifying in such report all cases of irregular, illegal, or improper expenditure, or failure to recover moneys or other properties due to or belonging to the institution and all cases of breach of trust and acts of misfeasance or malfeasance. The Auditor shall also verify the assets and endowments with the relative registers and append a certificate to his report recording such verification.

(*3*) The auditor's report shall be published in such manner as may be prescribed.

15. *Procedure for modification of scheme already in force.*—If there is a scheme of administration already in force in respect of a Mutt framed by a competitive authority, the Head of the Mutt or any twenty persons having interest may apply to the court for modifying the provisions of such scheme so as to bring it into conformity with this Act.

## STATEMENT OF OBJECTS AND REASONS

The Constitution has included religious endowments and religious institutions in the concurrent list, evidently in the view that on fit occasions, Union legislation on these subjects will be necessary or appropriate.

There are numerous institutions, known as Mutts or by similar names, which have been established and maintained for preserving and promoting the tenets and traditions of particular Hindu religious denomination. The Heads of these institutions are held in special reverence by their followers, and many of them have disciples living in several States. These institutions fall within the language and intent of Article 26 of the Constitution by which they have been given special rights regarding the management of their internal affairs. Many of these institutions have properties in more than one State. It is necessary and appropriate that these institutions are brought under a special Union legislation providing for their proper governance. Hence, this Bill is proposed to be introduced in Parliament.

MUKUT BEHARI LAL BHARGAVA.

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## BILL No. 88 OF 1950

*A Bill further to amend the Code of Criminal Procedure*, 1898.

BE it enacted by Parliament as follows:—

1. *Short title.*—This Act may be called the Code of Criminal Procedure (Amendment) Act, 19 .

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2. *Amendment of section 496, Act V of 1898.*—In section 496 of the Code of Criminal Procedure, 1898 (V of 1898), (hereinafter referred to as the said Code)—

(i) for the words "other than a person accused of a non-bailable offence" the words "is accused, complained or suspected of any bailable offence or" shall be substituted; and

(ii) after the words "before a Court" the words "as being accused, complained or suspected of any such offence" shall be inserted.

3. *Amendment of section 497, Act V of 1898.*—In sub-section (1) of section 497 of the said Code—

(i) for the words "accused of any non-bailable offence" the words "is accused, complained or suspected of any non-bailable offence or" shall be substituted; and

(ii) after the words "before a Court" the words "as being accused, complained or suspected of any such offence" shall be inserted.

## STATEMENT OF OBJECTS AND REASONS

The Bill seeks to set at rest the doubt expressed by many courts that unless the accused is apprehended or surrenders his person he cannot be released on bail in accordance with the provisions of sections 496 and 497 of the Criminal Procedure Code. Many accused persons abscond for fear of police apprehension and would gladly stand a trial and vindicate themselves before a court of law if they were assured that they would not be unnecessarily remanded to Police custody. When it is remembered that a very large percentage of persons prosecuted is discharged or acquitted by courts and malicious prosecutions and false implications by enemies in bailable and non-bailable offences are not rare the need of a change in the Law or to get the doubt at rest in this regard becomes imperatively necessary. This Bill if enacted will enable the accused to seek bail from courts even before they surrender themselves and in proper cases the courts will be able to save the honour and reputation of innocent accused and offer them protection from the trouble and indignity of police custody.

2. At present even if the accused is lying ill in hospital and is unable to attend personally he cannot apply for bail according to the interpretation of the law by the courts.

In a free country practical immunity from avoidable injury to reputation, honour and freedom from unnecessary restraint and harassment constitute the very basis of fundamental rights of the citizen and the Bill is designed to safeguard them by investing the courts with necessary powers to give relief whereever necessary or justifiable. The courts are armed by law in matters of bail and no change is sought to be introduced in the basic principle which regulate the exercise of the powers to grant or refuse or cancel bail whenever expedient or necessary. The change is only in respect of persons who can invoke the aid of courts to save themselves from rigidity of the system which practically enjoins police custody before the application of bail is disposed of on merits.

THAKUR DAS BHARGAVA.

## NOTES ON CLAUSES

*Clauses 2 and 3.*—The change sought to be made is clear enough and there is no need of any explanation.

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## BILL No. 75 OF 1950

*A Bill further to amend the Code of Civil Procedure,* 1948

BE it enacted by Parliament as follows:—

1. *Short title.*—This Act may be called the Code of Civil Procedure (Amendment) Act, 19

2. *Amendment of section 100, Act V of 1908.*—To sub-section (*1*) of section 100 of the Code of Civil Procedure, 1908 (V of 1908), the following shall be added at the end, namely:—

"(*d*) the original decree of the trial Court having in appeal been varied, cancelled or reversed:

Provided that a High Court while hearing a second appeal on any of the grounds (*a*), (*b*) or (*c*) above may in its discretion determine the correctness or otherwise of the decision on points of facts also, if it thinks that the decision of the Court below is erroneous or unjust."

## STATEMENT OF OBJECTS AND REASONS

Section 100 of the Code of Civil Procedure deals with the grounds of second appeal in civil suits. The grounds given there are as follows:—

(*a*) the decision being contrary to law or to some usage having the force of law;

(*b*) the decision having failed to determine some material issue of law or usage having the force of law;

(*c*) a substantial error or defect in the procedure provided by this Code or any other law for the time being in force which may possibly have produced error or defect in the decision of the case upon merits.

The rigour of section 100 has been much smoothened by a literal interpretation by the High Courts in India. But that is not all. It is also the duty of the Legislature to be prepared to review its Acts in the light of experience and it is time that we may try to appreciate the difficulties and remove the handicaps from which the highest Courts of Justice in India are suffering.

It is to meet this need that the present amendment is being moved. Its object is twofold. It gives the High Court full liberty in cases where the lower appellate court has modified or reversed the decree of the trial court. In such a case the High Court must be allowed to judge the validity of the judgment for itself on merits. In cases where the two judgments are concurrent, and the High Court on hearing the case finds that there has been a serious error on facts also, it must be given discretion to interfere when it thinks fit, and we can safely rely upon the proper exercise of discretion by the Highest Courts of Justice in India.

MOHAMMAD AHMAD KAZMI.

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# BILL No. 73 OF 1950

*A Bill further to amend the Indian Penal Code*, 1860

BE it enacted by Parliament as follows :—

1. *Short title.*—This Act may be called the Indian Penal Code (Amendment) Act, 19 .

2. *Amendment of section 302, Act XLV of 1860.*—In section 302 of the Indian Penal Code (XLV of 1860) and wherever else the words 'transportation for life' occur in the said Code, substitute the following words :—

"imprisonment of either description for a term which may extend to fourteen years".

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## STATEMENT OF OBJECTS AND REASONS

The punishment to which offenders are liable under the provisions of the Indian Penal Code are given in Section 53 of the said Code and are as follows :—

Firstly—Death,

Secondly—Transportation,

Thirdly—Penal Servitude,

Fourthly—Imprisonment which is of two descriptions, namely—

1. Rigorous, that is with hard labour; and
2. Simple.

Fifthly—Forfeiture of property, and

Sixthly—Fine.

Transportation can be for any period and may even extend for life. It was intended to be a separate and distinct punishment. The original object of transportation was two-fold. Firstly it was intended to be a deterrent punishment as the idea of transportation to Black Waters was generally abhorred by the Indians and secondly to colonise the places which were expected to develop considerably by the import of labourer.

In 1919 the Government of India appointed a Committee to enquire into the conditions of jails in India and also to make recommendations in respect of the Penal Settlement in the Andamans. This Committee found "the moral atmosphere of the Settlement.....thoroughly unhealthy".

They observed :—

"There can moreover be no reasonable doubt that it must always be more expensive to transport a prisoner to the Andamans and to guard, feed, clothe and otherwise maintain him there than it would be to keep him in his own province in India....."

Dealing with the necessity of transportation on moral grounds they observed "We are not convinced that any sufficient reason exists to justify the undertaking of such large expenditure. The great majority of persons who are deported to the Andamans do not belong to the worst or most dangerous class of Indian criminal. Out of the total population of 12,000 about 2/3rd or 8,000 are persons who have been convicted of murder.....The men who commit

these crimes are often some of the least corrupted members of the prison population, and there is, therefore, no special reason why they should be selected for deportation to Andamans. They might quite as well be retained to undergo their sentences in an Indian prison and a circumstance which bears materially upon this point is the fact that under the present conditions out of every hundred prisoners who are sentenced to transportation not more than fifty are actually deported to the Andamans owing to the stringent rules which have been laid down in consequence of the labour requirements and health conditions of the settlement. It seems to us, therefore, that if half of the prisoners who are now sentenced to transportation already remain in India, other half, who at present are deported, should not with some exceptions, also remain in India." The exceptions pointed out by the Committee are the frontier fanatics and desperate dacoits who are a source of danger to the security of life and property in the locality to which they belong and to whose retention in Indian Jails they attributed some of the misuse of fetters and other means of retrains which they had noticed in some of the provinces.

Summarising their views the Committee says:—"As deportation to Andamans has lost its deterrent effect, as it involves increased cost, as it exposes the prisoners to depressing climatic conditions, and in the case of average prisoners it is not needed from the administrative point of view....."

The Committee recommended the abolition of the punishment of transportation. As early as 1922 the Government of India had decided to abolish the punishment for transportation but had given up the task as they thought that by adopting a simple formula of commutation as contained in section 55 of the Indian Penal Code, they were likely to increase the severity of the sentence passed on the prisoner. Section 55 provides that the Government can 'without the consent of the offenders' commute the sentence of transportation for life to imprisonment of either description for a term not exceeding 14 years. In practice, however, even at that time more than 50 per cent of the prisoners under the sentence of transportation were kept in jails and now that the transportation has, due to the present conditions, become out of question, all the prisoners of that class are kept in jails.

The deletion of the word 'transportation' from the Penal Code would thus result in no practical change so far as the administration of prisons is concerned, I hope a time will come when the scheme of Sir Henry Stanyon or some other such scheme will be worked out for the reform of the prisons.

The object of the present Bill, is, however, a limited one. It will cause no change whatever so far as administration is concerned, but will give relief to the prisoners concerned, as well as relieve the Government of the higher costs of transportation even if transportation become feasible in near future. Part one of section 304 provides for transportation for life or imprisonment of either description for a term which may extend to ten years. The court has got no power to award imprisonment of 11 or 12 years. There is no intermediate between transportation for life and imprisonment for ten years. By the substitution of imprisonment for a term of years for transportation for life we will leave it in the power of the courts and specially the High Court to reduce the sentence to proper limits within their discretion. I have kept a period of 14 years as equivalent to 'transportation for life' as provided by section 55 of the Indian Penal Code. Any change in this term for good reasons would be acceptable to me.

MOHAMMAD AHMAD KAZMI.

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BILL No. 92 OF 1950

*A Bill further to amend the Code of Criminal Procedure*, 1898.

BE it enacted by Parliament as follows:—

1. *Short title, extent and commencement.*—(*1*) This Act may be called the Code of Criminal Procedure (Amendment) Act, 19 .

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) It shall come into force at once.

2. *Amendment of Section 492, Act V of 1898.*—In sub-section (2) of Section 492 of the Code of Criminal Procedure, 1898,—

(*i*) after the words "appoint any other person" the words "from the practising pleaders" shall be inserted;

(*ii*) the words "not being an officer of police below such rank as the Provincial Government may prescribe in this behalf" shall be omitted; and

(*iii*) after the words "for the purpose of any case" the words "or for any specified class of cases" shall be added.

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## STATEMENT OF OBJECTS AND REASONS

The Constitution provides that the separation of Judiciary from the Executive should be introduced in States as early as possible. It would be proper if the States appoint Public Prosecutors under section 492 (2) of the Code of Criminal Procedure, 1898 from the practising pleaders on daily fees for conducting Government and Police cases in the courts of magistrates as well.

Almost all the High Courts in India have suggested that Public Prosecutors and Assistant Public Prosecutors should not represent the police and should not act according to the wishes of the police but should act in courts fairly and fearlessly and should place correctly all the points of law.

The object of the Bill is that the States may be directed to appoint Public Prosecutors or Assistant Public Prosecutors on daily fees for the magisterial courts subject to the restrictions as laid down in the practice and procedure manuals as enforce in the respective States.

Public Prosecutors should not be taken from members of the Police who become both prosecutors as well as investigators of cases and hence for the ends of justice Public Prosecutors and Assistant Public Prosecutors may be appointed from the practising pleaders and they should receive instructions from the District Magistrates. Police should not have any control, supervision and should not give any directions to Public Prosecutors directly or indirectly. These days in U. P., Madras and other places lawyers who have been appointed Public Prosecutors for conducting police cases in the courts of Magistrates, have been placed directly under the orders and supervision of the police and they are given fixed monthly pay instead of daily fees. Such a practice is undesirable and must be abolished without any further delay.

KAILASH PATI SINHA.

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M. N. KAUL,
*Secretary*.

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